

Last, these provisions contain huge loopholes that many will exploit. Will abortion clinics apply for preferential rates as medical facilities? Will law firms with legal libraries seek preferential rates? These terms are not precisely defined in the bill and are open to exploitation.

Mr. President, as an example of what would be provided, it says in the bill on page 134, paragraph 3:

Health Care Provider. The term "health care provider" means post-secondary educational institutions, teaching hospitals, and medical schools.

After reading through the bill language and also after consultation with staff, I am told that the term "elementary school" means a nonprofit institutional day or residential school that provides elementary education as determined under State law.

Does that mean a nonprofit private school falls under this? Does it mean, as I said before, that clinics that perform abortions are a medical facility? Does it, under the term "secondary school," mean a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12?

Does this mean private schools? I know that some private schools such as private parochial schools are not very wealthy. I also know that we all know there are certain private schools that are extremely well off.

Mr. President, I just think this is a wrong idea. It passed by a vote of 10 to 8 in the committee without a large amount of debate.

I hope we can strike this from the bill. I have no idea how much this would cost. I believe that we have spoken very loudly and clearly that unfunded mandates are something that we are rejecting. I urge the adoption of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BRYAN. Mr. President, I ask unanimous consent that we might return to morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I thank the Chair and the distinguished managers of the bill.

TRIBUTE TO CAPTAIN O'GRADY

Mr. BRYAN. Mr. President, the nation sighed with relief this morning as we heard reports that Air Force Capt. Scott F. O'Grady, the United States pilot downed by a Serbian surface-to-air missile, had been found in good health, and was resting comfortably on a United States aircraft carrier.

Yesterday, in the Senate Armed Services Committee, Secretary of Defense Perry and Chairman of the Joint

Chiefs of Staff, General Shalikashvili, gave a presentation on United States policy towards Bosnia. As was clear from this hearing, there is little agreement on what United States policy should be towards this war-torn region, and many deeply troubling questions continue to surface regarding the depth of United States involvement in Bosnia, and the need for a strong and coherent United States and NATO policy.

But today, I would like to focus on a good news story, and extend commendations to Captain O'Grady and the American military personnel who were involved in his remarkable recovery.

Although details of the rescue effort are still being released, it is clear that many American military personnel put themselves at great risk in the all-out attempt to locate Captain O'Grady and safely bring him out of Bosnia.

The ability of Captain O'Grady to evade capture by the Bosnian Serbs for nearly 6 days in heavily wooded areas is a great tribute not only to the courage and survival skills of Captain O'Grady, but also to the outstanding training he has received as a U.S. Air Force pilot.

Equally outstanding was the courage and competence of the marines who went into Bosnia under extremely dangerous conditions. Early reports indicate two CH-53 Sea Stallion helicopters under attack by both Serbian surface-to-air missiles and small arms fire were able to land within 50 meters of where Captain O'Grady was concealed. The commander of these marines, Col. Martin Berndt, reached out, grabbed the young pilot, and took off in a matter of seconds.

Finally, many American pilots risked their lives during the past 6 days, flying through a highly sophisticated Serb integrated air defense system in an attempt to pinpoint the location of Captain O'Grady. Many of these flights were extremely hazardous routes in and out of thunderstorms. During the actual rescue mission, additional American pilots covered the Marine helicopters with fighter and electronic monitoring aircraft.

Mr. President, the training, competence and experience that led to the spectacular success of this rescue mission gives credit to the outstanding job done by Secretary of Defense Perry and General Shalikashvili, as well as Adm. Leighton Smith, the NATO commander for Southern Europe. But our highest tribute should go to the courageous young men who were on the ground in Bosnia or flying low overhead. They have demonstrated the best of our U.S. Armed Forces, and the quality of the young men and women we have defending our national security. And a special tribute must go to the remarkable young man, Captain O'Grady, whose actions and courage serve as an example for us all.

Mr. President, I yield the floor.

AIR FORCE CAPT. SCOTT O'GRADY

Mrs. MURRAY. Mr. President, I want to join the President, my House and Senate colleagues, and the American people in expressing my deep relief at the safe return of Air Force Capt. Scott O'Grady, who was shot down over Bosnia 6 days ago while on a NATO mission.

It is a tribute to Captain O'Grady and the Air Force that trained him that he was able to survive for so long under such difficult circumstances. And certainly we must all loudly applaud the brave marines who put their own lives on the line and rescued him under the most treacherous circumstances, braving both missile and small-arms fire during their 5-hour rescue mission, to pull one of their own to safety.

Captain O'Grady's family has no doubt had a week of anguish and hope, and I celebrate with them this wonderful news and the remarkable strength and courage of Captain O'Grady and the marines who come to his rescue.

Scott O'Grady, who is from Spokane, WA, is an inspiration to citizens across my State and this nation, and I am proud to join the many many voices today that are celebrating his safe return.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1262

The PRESIDING OFFICER. Is there further debate on amendment No. 1262?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, as we know, the distinguished Senator from West Virginia, Senator ROCKEFELLER, on the Commerce Committee, has been the lead Senator on our side, and the distinguished Senator from Maine, Senator SNOWE, on the majority side of the Commerce Committee with respect to the public entities. They did not realize this amendment was coming up and they are on their way to the floor.

My friend from Arizona got some quick figures and questioned the figures I had given relative to the air fares. So let me once again state that the USAir fare from National to Charleston round trip is \$628. United from Dulles round trip to Charleston is \$628. There is a Continental flight at \$608 round trip from National.

With respect to USAir going down to Miami, we talked about flying 500 miles further and of course the 500 miles coming back, 1,000-mile difference. There is a USAir \$658 round trip to National, and if you walk up to the counter, there is a special of \$478 for the 10 seats available that the clerk at the counter can give at that reduced rate.

Perhaps that is what was the case with respect to the quoted figure of going from Dulles to Charleston, D.C. to Charleston, the \$249 fare round

trip—that was the 21-day advance, non-refundable fare under USAir.

In my investigation, though, it did prove salutary that I found out the Government fare to fly out from Washington to Charleston is \$192, but the Government fare all the way out to Phoenix is \$135. So we found out, in the airline industry, who the chairman is of the subcommittee on air travel.

I am going to get my office to call and see if I cannot persuade the Senator from Arizona to get me a little bit better consideration on this Government rate. They go 1,000 miles further, I say to the senior Senator, the President pro tempore of the Senate, 1,000 miles further and they get it \$47 cheaper than you and me.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from South Carolina for his additional information. The fact is, there are still one-way tickets available for \$249. And the fact is, the number of departures from Washington, D.C., to South Carolina since deregulation has gone up 16 percent. The number of available seats since deregulation from Washington, D.C., to South Carolina has gone up 50 percent since deregulation. The President's Council of Economic Advisers has said that consumers have saved \$100 billion since the airline industry deregulated.

I would also point out to the Senator from South Carolina, who is so enamored of the trip from Washington, D.C., to Phoenix, if I choose to leave from National Airport there is no direct flight. It has to stop someplace in between because of the arbitrary barrier to the markets imposed by the so-called perimeter rule, which was imposed by the former Speaker of the other body, Mr. Wright, which happens to reach the western edge of the tarmac at Dallas-Fort Worth Airport.

So, as one who commutes back and forth every weekend and has done so, now—this is the 13th year—I can assure the Senator from South Carolina I am in favor of far more deregulation. What the Senator from South Carolina calls distance market is what is called the free market. It is called supply and demand. When there are enough people who utilize a service the price of that service goes down.

It is a strange thing we find out when the free market works. If enough people want to use a certain service, and the cost of that service is divided up amongst more people, then the cost goes down. I am sure the Senator from South Carolina can appreciate that phenomenon. It has happened in the airline industry and the trucking industry and every other industry that we have deregulated. I am very sorry we are not going to see that in the telecommunications industry, because we have basically a bill that is more reregulatory than deregulatory.

But as I said earlier, I look forward to the opportunity of extended debate on the issue of airline deregulation

with my friend from South Carolina, who obviously feels very strongly on the issue and has a lot of knowledge and experience. But I would remind him, the issue before us today is telecommunications deregulation, although I always enjoy a spirited exchange with my dear friend from South Carolina.

I thank him and yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, quickly because the Senator from West Virginia is here, the number of flights has gone up in the context of the population and travel. It certainly has not gone up in the context of service and price.

With respect to the service, now, those direct flights that I had are gone. I know it. I know it severely. I spend more time in Charlotte, NC, than I do in my hometown of Charleston.

I told Harvey Gantt, when he was mayor, I was going to run against him and run for mayor of Charlotte because I am beginning to know more people in Charlotte than I do in Charleston. With respect to price, obviously some time back, it was a round trip, \$64. That is what I used to pay. It is now up to \$628. Inflation could quadruple the price but not go all the way up to \$628.

The price has gone up and I am subsidizing those long hauls. Eighty-five percent of the medium- and small-size towns in West Virginia and in South Carolina are subsidizing the long hauls out to the west coast and Phoenix, Los Angeles and the rest, because the airlines make money on those things. Because that is where, under the economy of distance and the airline fuel costs and the crew and everything else, non-stop, they can make the money. And we have to subsidize it.

The service has gone down, and the airlines are broke, and the Europeans are taking them over and we are thanking them for taking them over.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, there are times when I wish I had never offered an amendment in the Commerce Committee having to do with perimeters for flights, 1,250 miles, because the doing of that and the winning of that in the Commerce Committee has, I think, fundamentally angered my very good friend, the distinguished Senator from Arizona. I think it has caused a whole series of things to happen as a result. The hearing with respect to United Airlines, a hearing with respect to—well, no other hearings, but then I think this amendment. I think he was very deeply disturbed by that.

I just want to say one thing. As I walked in the door over there I heard him mention that \$100 billion had been saved in terms of cost of deregulation of airlines. I want to inform the Senator from Arizona that—sure, a lot of that must have been saved in West Vir-

ginia. Because you do not get to West Virginia now by jet airplane. Yes, there are one or two. Corporations have theirs. But when I go it is by propeller. I remember when we had American and Eastern and United, and they came in regularly into our airports. That was years and years ago.

Within two or three months of deregulation it was gone. I am talking about this amendment when I am talking about airlines; that is what happens when the free market is allowed to entirely set what the rules of the game will be.

West Virginia has suffered substantially. West Virginia has suffered profoundly because of deregulation of airlines which is glorified by the Senator from Arizona and which is very deeply hurtful to the livelihoods of the people of the State of West Virginia who have to move to other States, often, because there is not enough work because businesses have to be able to count on reliable air service and they do not want it to be some small propeller plane where your chin is resting on your knees—as is the case in the seated position of the junior Senator from West Virginia.

It is incredibly important, not just to West Virginia but to every single State that has any part of it which is rural, that the amendment of the Senator from Arizona be defeated and be defeated soundly. We are dealing with some very, very fundamental principles here.

For example, as we build on this information superhighway we must include an on-ramp for students and adults to ensure that every American has the opportunity to plug in and be part of this technology.

The bill before us, ably shepherded through by Senator HOLLINGS and Senator PRESSLER, includes this amendment. I think this amendment—I said this a couple of times in the last few days—I think it is so important that this language stay that schools, elementary schools, secondary schools, no matter where they are, be included as part of the information process, that they be wired up, that public libraries be included as part of this process, which in many cases in rural areas and other areas they may not be and will not be, because, like airline deregulation, you go where the population is.

And, terribly important particularly for rural areas, that the telemedicine be available through rural health centers and through rural hospitals. And they will not be if the amendment of the Senator from Arizona prevails. They will not be because the market will not allocate the resources to make that available. I am as certain of that as I am of having to take a propeller airplane whenever I go to West Virginia. In fact, the only time that I do not take a propeller airplane when I go to West Virginia is if I go to Pittsburgh first. And the principle is exactly the same. The market will seek out where it is profitable to go as they are deregulated, as we will do and we will do

with my full support in this bill, but where it is not profitable for them to go they will not go.

I want every Senator from every one of the 50 States—I do not care if it is New York State, which is thought of as being urban but has an enormous rural section, that people who live in Binghamton, NY, or Oneida or other places outside of that, they are not going to get service. Their elementary and secondary schools, their rural hospitals, their rural health clinics are not going to get service. They are not going to be wired up. They are not going to be part of this information highway. It is not going to happen because the market will make other choices.

As a result of that, I have said what I think is probably a hyperbole in listening to myself say it, but I find believing myself saying it so compelling that I need to say it on the floor of the Senate, that if this language is allowed to stay in the bill and, thus, if the amendment of the Senator from Arizona is defeated, this Senator as an individual junior Senator from West Virginia will probably have done more in one series of paragraphs of sentences in a bill to help his State than anything he has done in his public career.

I feel so strongly about that amendment. The amendment to strike this language is so wrong. It is so wrong for rural America. It is so wrong for places that cannot defend themselves. It is so wrong for choices that will be made by the marketplace to avoid elementary schools, secondary schools, libraries, rural health clinics, and rural hospitals. If you are not there with the technology, you might as well not be there.

If you are a kid, if we want to create in this country a first-tier and a second-tier society—and I am not talking about rich and poor in financial terms. I am talking about even more important terms; that is, having a future. If you want to have a two-class society in this country, those who know and those who do not, then you vote with the Senator from Arizona because that is what you will have. You will have people that go on-line, with America-On-Line, that can search and have their home pager and do all kinds of things, and they will make 15 percent more in salaries than people that do not have those abilities; probably 30 percent more.

I remind you that in the computer business, the productivity, the technology, has been doubling for the last 30 years every 18 months.

So what are these rural schools, what are these rural hospitals to do when they are not wired up? I cannot imagine anything that affects the future of this Senator's State, of the State of the Senator from North Dakota or the Senator from Nebraska in a more fundamental way in terms of its young people finding a chance to take their place in America as citizens with possibilities and pride and confidence than how this amendment is disposed of.

Senator PRESSLER and Senator HOLLINGS have worked together and have kept this as a part of the bill. They deserve praise for that.

I want to share one story. Then I will sit down and yield to the others. I will have more to say about my home State of West Virginia and this amendment, which I feel is just—I feel so strongly that it has to be defeated for the sake not just of my State, but of every State, the rural and the out-of-the-way parts of every State. Let me share one story about West Virginia. It has to do with the West Virginia Library Commission, which is a very aggressive group. They have very aggressively worked for years to develop the network, and they recently won a Federal grant to provide computers for over 150 libraries in our State.

Our State commission is currently investing in that equipment and training for every library to be linked to the internet. But each library must pay for its own telecommunication link, and they cannot. My wife Sharon and I have our farm in Pocahontas County. That is one of those little public libraries—when I was a Governor I was there—a little octagonal building that uses solar ray because they cannot afford the fuel. And it is interesting to use solar panels in that part of the State because the sun does not shine that often. It rains 45 inches every of year. There is no way they can possibly match.

So that is taking the students of Pocahontas County, WV, and condemning them to second-class citizenship in terms of going into a library or the adults who want to improve themselves through library services. They are struggling financially. They cannot match. They cannot pay what they would be required to pay.

We have something in this law called “public interest.” If there is ever a case of public interest, it is that people who are born in poor circumstances, in rich circumstances, in rural areas, in urban areas, or somewhere in between on either of those fronts have an equal chance in terms of the education system and the computer system and the health system of this country.

No, we did not pass health care last year. Maybe we bit off too much. But here is something we can bite off which will really help. It is called telemedicine. It will only affect those parts of the State which are rural, and they will never get it unless the amendment of the Senator from Arizona is defeated and defeated soundly.

Our part of the bill on this is not intended to give something away for nothing. It merely assures financially strapped public institutions like libraries and schools will get affordable rates for access.

There are many others who want to speak. I will speak more on this subject. But I say again that the defeat of this amendment, I think, is central to the bill. I think it is central to the future of the young people and adults of

my State. I have rarely felt so strongly about anything in my public life.

I yield the floor.

Mr. ASHCROFT addressed the Chair. The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I rise in support of the amendment.

Some provisions of the legislation I believe are not necessary would promote bureaucratic intervention and intermeddling in the system. I believe the provisions of the legislation which will provide for subsidies and will provide for special privileges for certain entities is unnecessary.

I believe that the suggestion that this is similar to the airline industry is misleading and counterproductive. The truth of the matter is that technology is going to change dramatically the impact of distances as it relates to the transmission of data and information. If you are bouncing information off the satellite, it does not matter whether you are in a rural area or in an urban area. It does not matter whether you are in a remote area or an approximate area. They are all equally accessible in that respect.

So to speak about the airline industry and the amount of traffic that is generated to one area, and that that traffic somehow does not justify a lower cost to that area like it does another area ignores the fact that the transmission of data, especially the wireless transmission of data, simply really does not have costs related to the location of the receiver of the data.

The data can be transmitted or received via satellite regardless of the location. So I do not think it is particularly instructive to try to get bogged down in the debate over airline deregulation here. We are talking about a different technology. And arguments which are locked into the technology of the past are based on ideas like the airline technology and what it takes to transmit a passenger instead of transmitting data, those are misleading arguments.

The provision which is, I think, noble in its objective to try to help us have educational institutions with good access and health institutions with good access would require a costly accounting procedure and intermeddling by governmental entities to try to determine what would be “reasonable rates” or what would be “incremental costs.”

If we say that elementary schools, secondary schools, libraries—and, incidentally, that is not public libraries in the legislation. The word “libraries” is used without reference to whether it is public or private—if we say that they are entitled to special rates for the transmission of data or communications which they would choose to transmit or provide, it seems to me that we have set up a provision which requires governmental rate setting, governmental cost accounting, and massive and significant intervention of the Government in this process. And if those rates are established by the Government at less than the full cost of

the proceeding, that means everyone else who uses the system is going to be subsidizing the overall cost of these institutions and these entities.

Much has been made of the rural setting and the fact that it might be a lot more expensive according to some that in order to have provision of telecommunications to rural settings—

Mr. PRESSLER. If my friend will yield for a unanimous-consent request, it will take 30 seconds.

Mr. ASHCROFT. I will be happy to yield.

Mr. PRESSLER. Mr. President, there has been agreement on both sides for a vote on the McCain amendment at 3:30 today and that the time between now and then be equally divided—I do not intend to use mine; I will give it to anyone who wants it—in the usual form with no amendments in order to the amendment.

Mr. KERREY. Reserving the right to object.

Ms. SNOWE. Reserving the right to object.

The PRESIDING OFFICER. There was no unanimous-consent request made at this point. There was an explanation.

Mr. PRESSLER. I ask unanimous consent that the vote occur on the McCain amendment at 3:30 today.

Mr. ROCKEFELLER. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I thank the Chair.

In order for some groups to have a specially reduced rate of services, other groups will have to pay and subsidize that rate for service. Now, whether those services are laudable or important or necessary or would not otherwise be available is debatable. There seems to be the thought that a lot of rural hospitals exist now without telecommunications access. I have been to many rural hospitals during the last year. I actually worked in several rural hospitals. They all have a number of the kinds of transmission devices that were very important to transmitting and receiving the kinds of things that would be involved in telecommunications. All of them had cable television, coaxial access, and the like.

The point I would make here is that on page 132 of the bill, at lines 19 through 22, it provides that the rates would be affordable and not higher than incremental costs.

This places the Government in a position of having to try to ascertain what affordable rates are, having arguments about what incremental costs are, and injects the Government back in the process of regulation at the micro level. I think it is counterproductive. I pointed out that it not only applies to schools, elementary and

secondary, but it applies to libraries, and it does not mean that it is only public libraries. The statute just says "libraries."

I wonder if you might literally have a library that became an electronic library. It could be commercial in nature but it could provide information on the telecommunications highways but demand the right to do so at subsidized rates merely because it is mentioned in this section.

It occurs to me that the promise of telecommunications deregulation means that access to new service, both digital and wireless, is going to be available to individuals around the country and institutions around the country. It also occurs to me that as that access is available and becomes cheaper as a result of the proliferation of services—and it is estimated that our costs in telecommunications will go down very substantially—a bureaucracy to start setting rates and to regulate the rates and to provide special subsidies for one part of our society as opposed to another is not only unnecessary but is counterproductive.

So I stand in support of the fact that the marketplace will do a good job of providing service. And I just elevate for your consideration something of what has happened in terms of cellular phones. Some have indicated that because there are rural areas there would not be cellular phones. My State, which has substantial rural area, is covered with cellular phones. Virtually every part of the State is accessible to them. And I was charmed the other day, when meeting with some cellular phone operators, to find that one of the rural cellular operators includes in the package that is offered free long-distance phones so that if you pay for time on your cellular telephone, you can call anywhere you want to in the United States of America at the same rate you can call the next phone.

This is sort of the prejudice that they are alleging, I suppose, is going to ruin us if we do not have this micromanagement in the telecommunications industry.

That is not prejudice at all. That is just the fact that entrepreneurs are at work in rural America as well as they are in urban America, and as a matter of fact in rural America sometimes telecommunications services are substantially enhanced and can even be at a competitive advantage, comparably stronger, offered with a more attractive array of advantages and features, than they would in the urban setting.

It is with that in mind I think this amendment is well taken, that I think it is unnecessary to set rates and to have micromanagement and special privileges and subsidies built into this bill at a time when telecommunications is going to be more and more available as a result of technology, when the rates will be going down as a result of a proliferation of providers and services. And for us to single out a few groups, some of them inordinately

narrow, perhaps providing additional advantages to public schools as opposed to private schools, some of them inordinately broad, providing this subsidy to all libraries, however they may be defined or constituted, it seems to me this section would be a section without which we could do well. And for that reason I support the amendment as proposed by the Senator from Arizona.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I grew up in North Dakota, in a town of about 300 people. I graduated in a high school class of 9. It is always interesting to come to the Senate floor and listen to folks who talk to us about the marketplace and competition and the advantages of this free market system as the allocator of goods and services. Frankly, in my hometown, a small town 50 to 60 miles from the nearest big town, which was 12,000 people, we did not receive a lot of the marketplace advantages that big cities have. And we did not complain a lot about it. We had a lot of other advantages living in a small town. We did not have a theater in Regent, ND. I guess you have a theater in big towns.

I do not come to the floor of the Senate suggesting somehow from a public policy standpoint we need to have theaters in my hometown or in small towns in order to enjoy the arts. We missed out on a lot of the advantages that the market system brings to big communities because the market system works in search of revenue and income and profits.

The market system works when competition is developed around a circumstance where competitors can provide a service or sell a product and make money. Where are they going to do that? They are going to do that where people live because the more people, the bigger the market, the more potential for profit.

That is the way the market system works. We understand that. All of us have likely studied Adam Smith, who talked about the cloak of the invisible hand in the market place. Adam Smith would be rolling over in his grave these days because he preached these things before there was the modern convenience of the corporation—the artificial person that is born, lives, and never dies. Adam Smith actually talked about the marketplace and the cloak of the invisible hand when we had people who participated in the marketplace who lived and then died.

But, in today's marketplace, the corporations dominate and they do not die.

It is a different life and a different time. So Adam Smith, I suppose, would adapt.

It is useful, I think, to talk about this issue of deregulation and the issue of airlines, even on this amendment. The Senator from South Carolina was,

I think, still addressing the core subject when he talked about deregulation of airlines on this amendment, because this amendment really provides an opportunity for people to see competing visions of what we ought to be doing.

Some stand up and say, "It doesn't matter what it is." It does not matter if it is communications, health care, transportation. It does not matter what it is, let the market system decide who gets served, when they get served, and how they get served.

I am glad we had folks in Congress who did not believe that back in the thirties when they decided how to move some electricity around to provide advantages in this country and nobody in the world wanted to serve the farms in rural America because it was too expensive. If you had one customer for every 2 miles, you are not going to run a line out there and try to serve a farm because it is not profitable. The result, if you lived out in the country, is you did not turn on a light switch because you did not have electricity.

Congress said there are some things universal in nature, some things everybody ought to enjoy the advantage of in this country. Electricity was one. So enough people in Congress felt differently than those who propose this amendment, and said, "Well, we understand the marketplace, we understand competition, but we understand also there are some universal needs one of which is electricity." Therefore, they constructed an REA Program and brought electricity to farms, electrified rural America, and unleashed productivity never dreamed of before.

That would never have happened if we worshiped at the altar of the marketplace and said rural America will get electricity as soon as the utility companies decide to run a line out there. When will that be? Never.

The Senator from South Carolina, as he stood and spoke about this amendment, talked about airline deregulation. Airline deregulation had at its roots the notion of let the marketplace decide who gets air service, at what price, and what convenience in this country.

We know what has happened with airline deregulation despite all the little statistics and charts people keep bringing to my attention. If you live in rural America and you access airline service, you have less choice and higher prices. It is a plain fact. If you live in Chicago, God bless you, then you have more choice and lower prices. That is just the way it works. There is no denying it. All the data in the world demonstrate that is the case.

"Oh," some will say, "gee, there are more little flights here and there." Yes, there are little propeller airplanes running around. The fact is the minute a regional jet carrier tries to start out, one of the large carriers tries to squash them like a bug and do it successfully. I think it is interesting what is happening in the airline industry is the big have gotten bigger, the big carriers

have gotten much, much bigger by merging and absorbing little carriers.

Those on the other side of the aisle who preach competition and who talk about the virtues of the marketplace never stand up and say, "Wait a second, when the big get bigger and you concentrate more power in the hands of the few, you have less competition." In other words, those who bring these amendments to the Senate floor talk about the virtues of the marketplace, preach about competition but they do not practice it. If they practiced competition, they would care about ending up with only four or five very large airlines who have absorbed all the regional carriers. You do not hear that. You never hear from the folks who talk about competition, what we need to do to keep competitive and what we need to do to fight monopolistic tendencies.

In the airline deregulation issue, it was decided that the Department of Transportation shall make judgments about whether a merger is in the public interest or not, and the Justice Department shall be consulted.

Mr. President, do you know what has happened? What has happened is a merger is proposed by a large carrier buying up a smaller carrier and it goes to the Department of Transportation. The Department of Transportation raises its hands and says, "Hosanna, this is just fine, we have no problem." The Department of Justice says, "No, this is not in the public interest," but the Department of Transportation approves it anyway.

That brings me to the telecommunications bill. We have the same problem. They say, "Let's defang the Department of Justice and let the Federal Communications Commission decide when the regional Bells should be allowed to enter into long distance. What is the competitive test, when does competition exist and when does it not, regarding local and long distance services."

Same old thing. We apparently have not learned with respect to airline deregulation and giving the Department of Transportation the authority and rendering the Department of Justice to a consultative role.

Some of us will offer amendments on the role of the Justice Department, which I hope the Senate will accept. If we are going to stand here preaching competition on the floor of the Senate, let us all practice the virtues of competition. Let us nurture the benefits of competition by deciding that we want competition in a real way to exist in this country.

I do not understand sometimes those who say there is no other interest we have except having the marketplace and the potential profits dictate who gets what in this country. There are apparently no other influences or interests they have in terms of what advantages Americans should enjoy, what kind of things are universal in nature—transportation, communications, and others.

I recall a book written by Upton Sinclair as a result of research he did at the turn of the century. I do not want to ruin anybody's dinner, but Upton Sinclair is the person who toured the meat packing plants and discovered the scandal of the rats in the meat packing plants. Producers put arsenic on slices of bread and placed them around the meat packing plant so the rats would eat the arsenic and die. The rats died and they shove the bread and the rats in the hole with the meat, and they produce the mystery sausage. That is what America was eating.

Upton Sinclair said this is what is going on. Then America rose up and said, "We don't want to eat that." The barons of industry producing meat laced with rat poisons and rats apparently going down the same chutes were pursuing profits but not very interested in the health of our country.

So Congress said maybe we ought to inspect meat. Maybe those folks who say the free-market system should not be interrupted are prepared at this point to say, "Let's not inspect meat because we are inconveniencing the folks who run the meat packing plants." Maybe we should not inspect airlines for safety because we inconvenience the airlines.

I have heard some disciples—not anybody in the Congress—but I have heard the free market advocates and some of the theorists suggest if people are putting out bad infant formula, babies will die and people will realize that the company is selling bad infant formula. Pretty soon, consumers will not buy any more infant formula and the company will go bankrupt. So the penalty for killing babies is bankruptcy.

Maybe the same theory is on airline safety. You do not have a Government role on airline safety. If the airline is not safe, if they do not have their own internal safety mechanism, planes crash and people will say, "We won't fly that airline anymore, and, therefore, the market system is a self-regulatory system, so we do not want to worry about airline safety," they would say. "We don't have to worry about meat inspection," they would say. "Those are all inconveniences to the market system. Let's let the income stream of the market system and competitive forces determine who does what in this country."

I have taken a long tour to get back to the central point. I recognize that. This is a perfect place for us to talk about the differences between us and them, and by them I am talking about those who stand and say there is not a public good that is involved here when you single out libraries or hospitals in rural areas with respect to rates charged and the buildup of infrastructure of the actual communications industry. They say, "No, that's meddling, that's tinkering." We have heard all these voices before. They say the market system will work, and if the market system does not get these services to those rural areas, to those hospitals,

to those schools, those libraries, then tough luck, it was not meant to be.

I would appreciate it, if anybody is keeping score, if they would put me down as a meddler, at least a tinkerer. Maybe someone who believes that it is worthy as we build up the infrastructure of telecommunications to have some on-ramps and some off-ramps, yes, even in the smallest portions of this country, even in rural towns, even at small libraries, even in rural hospitals. If we do not believe that, as far as I am concerned, I do not want to participate in building it. Is that selfish? Probably. But I come from a part of the country where they crossed with wagon trains, years and years ago, to get where they were going, and they understood back then the concept of moving together. You did not move wagon trains ahead unless all the wagons were ready. You do not move ahead by leaving some behind. That is part of the focus of this debate, I believe.

This can be a remarkable opportunity for our country by seeing the explosion, the breathtaking new technology in telecommunications that improves our lives. But it can also be the development of a system of communications, producing services and products that leaves out a significant portion of our population if it is not done properly.

I hope that as we go through this debate, we will expose over and over again the basic conflict between the two theories expressed on this floor—one by some who say let the market system allocate and decide and do not meddle and worry about whether folks in the rural areas are beneficiaries of this breathtaking new technology. And others of us say, no, this is something of a more universal need and a more universal nature, and we want all of America to benefit from it.

That is what this amendment is about, I suppose, and why I oppose it. I think it contravenes that basic need that we have in this country to make sure all Americans benefit from the potential good that comes from this new telecommunications industry.

So, Mr. President, I would like to make one additional point. I know that the chairman of the committee and the ranking member are very anxious to move forward. We have a vote ordered now or one that is about to be ordered. Is there a vote pending at this point?

Mr. PRESSLER. No. We are working on an agreement.

Mr. DORGAN. I understood earlier this week that the antiterrorism legislation should be moved quickly, and I cooperated with that. It was important to do that. The majority leader was absolutely correct. But I do not think there is a compelling need to suggest that we ought to be dealing with hundreds of billions of dollars in American industry and the rules for the telecommunications industry and be worrying about whether we get 20 or 30 minutes to fully debate something that is going to have a profound impact on

our country. Let us take some time on these amendments and explore them thoroughly, and let us have good debate and substantial debate, and then let us make judgments.

But there is no reason, in my judgment, to believe that we have to finish this bill by 6 o'clock tonight or 9 o'clock tonight or 10 o'clock tomorrow. This bill ought to take whatever time it needs for us to devote our best energies and intellect to make sure this is the right thing for our country.

Mr. President, I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in very strong opposition to the amendment that has been offered by Senator MCCAIN. It certainly is disturbing to think that some Members in this body cannot accept a provision that will provide affordable access to rural schools, libraries, and health care providers, given that we have become part of the information age, and this issue is absolutely critical to our Nation's future.

The Senator from Arizona has offered an amendment that will strike the provision that was offered by Senator ROCKEFELLER, Senator EXON, Senator KERREY, and myself in the Commerce Committee which requires telecommunications carriers, upon a bona fide request, to provide important telecommunications services to schools and libraries and rural health care providers.

This principle of affordable access is not a new concept. The universal service concept has been embodied in our national telecommunications policy since 1934, to ensure that all parts of America had access to the telephone. It was important to ensure that all Americans had access to the essential service at the time, telephone service.

But universal service needs to be updated, and in fact, the bill recognizes that universal service is an evolving concept. The bill presently ensures universal service for telemedicine, and educational services, which I believe will make a difference, not only for America and its ability to compete with other countries, but also for individuals in preparing themselves for the work force of tomorrow, which we know will be constantly changing. And ensuring that our Nation's children gain access to the important technologies of the future will make a significant difference in the standard of living they and their families will enjoy for years to come. That is what this amendment is all about.

The Senator from Arizona, Senator MCCAIN, is offering an amendment to strike this language. His amendment will result in a nation of technology haves and have-nots, and that is not an outcome that I am willing to accept.

I do not believe that we in Congress should pass a new telecommunications policy—I might add, the first revision of the Communications Act since 1934—which divides our Nation between the

telecommunications haves and the have-nots. Many of the telecommunications providers are going to reap enormous gains from this legislation. Most will, and some will not. But the point is, in deregulating the telecommunications industry, we must make sure that we do not deny important areas of our country affordable access to telecommunications services.

We know the densely populated urban areas will benefit from deregulation. They will have the benefit of all of the advances in technology for today and tomorrow and thereafter. But what about the rural areas? We know now that telecommunications services are far more expensive in rural areas than they are in urban areas, for example, access to Internet costs more in rural areas because the Internet nodes of access often are not in local calling areas, meaning that rural consumers must pay toll rates.

What is going to happen now? If we do not guarantee some affordable access to telecommunications services in rural schools, libraries, and health care centers, where are they going to be tomorrow? Where will our Nation be? It is in our national interest to ensure that these areas are part of the information superhighway.

If we want young people to be familiar with technology and to have it become second nature to them, to understand that it is their future, I cannot understand why we would support Senator MCCAIN's amendment, which would take out the one provision that provides enormous public gain for all of America.

Look at telemedicine. It is the here and now and it is the wave of the future. I have talked to many rural health care centers in my State of Maine. They need affordable access to telemedicine. They need the help so that they can provide the same kind of services and health care for their rural constituents as enjoyed by residents of more densely populated areas.

I received a letter recently from Eastern Maine Health Care Services, which is located in a rural area of the State. They write:

In the past several months, a network of hospitals have begun to collaborate in our region of Maine. One of the outstanding issues within that group is the need to use telemedicine as a tool for providing cost-effective quality health care from the smallest to the largest towns in our region. Telemedicine in our region is defined as the transmission of data—voice, image, and video—over distance. We have come across many obstacles in this endeavor, but one of the greatest obstacles is the transmission of these media over the present telecommunications lines at an affordable cost. Many of the hospitals and health centers in our service area have extremely limited funds.

I thank the Senator, the chairman of our committee, Mr. PRESSLER, for including important refinements to this language in the managers' amendment. I know that there are some, such as the sponsor of the amendment to strike this language, who believe that the

marketplace should be free of regulations and that somehow, someday, affordable telecommunications will be available for everybody at affordable rates.

Other Senators have mentioned here on the floor today, as an example of deregulation and the impact that it has had on many rural parts of our country, the impact of airline deregulation. I can certainly speak firsthand to that, as far as how it has affected the State of Maine. It certainly has denied us the kind of airline service I would have thought might have developed from deregulation, and it simply has not happened.

Many of the areas that at one time had the benefits of airline service—and I might add jet service—do not even have the benefits of commercial airline service.

Our largest city in the State of Maine, Portland, ME, is losing jet service as a result of deregulation. That is occurring this year.

Since we have had deregulation—this is about 17 years ago—the situation has gotten worse. It has not improved in the rural areas of our country. That is a fact.

I can speak to it firsthand because I use those airlines every week. We have commuter services. We do not have jet service for the most part, anymore, in the State of Maine. Most of the areas, like Presque Isle and Portland, that used to have jet service do not have the benefits of commercial airline service.

So that is why I cannot understand why we want to apply the same notion here when it comes to telecommunications services. What will happen to the rural area? Who will make sure that our schools, libraries and health care centers are going to have the benefits of our national information infrastructure, if we do not provide for that in this legislation?

House Speaker NEWT GINGRICH said "If our country doesn't figure out a way to bring the information age to the country's poor, we are buying ourselves a 21st century of enormous domestic pain." He said, "Somehow there has to be a missionary spirit in America that says to the poor kid, the Internet is for you, the information is for you."

Well, that is exactly right. But I think that we have an obligation as a Nation to ensure that our young people have affordable access to this kind of service.

The National Center for Education Statistics reports—and I think it is interesting to note these statistics because I think it proves the point—that 35 percent of public schools have access to the internet, but only 3 percent of all instructional rooms, classrooms, labs, and media centers in public schools are connected to the internet.

Of the 35 percent of the schools with access, 36 percent cited telecommunication rates as a barrier to maximizing the use of their telecommunication capabilities.

Some would suggest that the Snowe-Rockefeller-Kerrey amendment is opening a Pandora's box, a new array of entitlements for schools, libraries and hospitals. No, it is not.

As I said earlier in my remarks, universal service provisions for residential consumers existed in the bill prior to the adoption of this amendment, to this legislation, in the committee.

Those provisions guaranteed access to essential telecommunication services for residential consumers. Our amendment simply provides that assurance for key institutions in rural areas. Our objective is to ensure that rural areas are on an equal footing in terms of schools, libraries, and health care facilities in urban areas.

I should also mention the fact that we have worked with some of the Bell telephone companies to address their concerns. We made some changes in the language, to address their concerns about incremental costs language. The revised language ensures affordable access to educational services for schools and libraries, and discounts will be determined, as for residential consumers, by the joint board in conjunction with the FCC and the states. The discount must be an amount necessary to ensure affordable access to use the telecommunications services for educational services.

Some have suggested that these discounts would be wasted on some communities with poor schools, low literacy rates, high levels of unemployment, or other social problems. I disagree. This language will open doors, not close them. Those communities stand to gain enormously from the telecommunication network. It will open up a whole new world to these communities. Senator McCain's amendment will deny those gains, benefits, and opportunities for troubled areas.

We do not know what the future will be all about. We do not have a crystal ball. We do know, however, that technology and the information age is going to be very much part of our future, I think in ways which we cannot now fully anticipate or appreciate even today.

This is the first time we have addressed telecommunication policies, I mentioned, since 1934. There probably will be years and decades before we come back to this issue as a Nation and as an institution.

How can we seek to deprive some areas of the country of the knowledge that they need in order to thrive and to develop, and to be productive for the future, for their future and this country's future?

Knowledge is power. To cut some areas off from the information superhighway is not only denying them the future that they deserve, but it is denying the kind of future this country deserves, because their future is going to affect America's future.

I hope that the Senate will reject this amendment of Senator McCain to

strike out our universal service language, which, I might add, is not a new concept. In fact, it is interesting to note that the Commerce Committee in the last Congress approved a bill by a vote of 18 to 2 which contained adopted similar language on this very issue, extending the universal service concept to these key institutions, schools, libraries and rural health care facilities. Last year's bill went even further than this year's bill—it contained universal service discounts for museums and zoos and so on.

We narrowed our language to ensure that we were just addressing the needs of key entities that are so important to the development of this Nation.

Funding is a major barrier to access, it is the one that is most often cited in the acquisition of users of advanced telecommunications in public schools.

Smaller schools, with enrollments of less than 300, are less likely to be on the internet than schools with larger enrollment sizes. Only 30 percent of the small schools reported having internet access, while 58 percent of schools with enrollments of 1,000 or more reported having internet access.

So we know that there is a gap between the high expectations of an increasingly technologically-driven society and the inability of most schools, particularly rural schools, to prepare students adequately for the high-technology future.

Almost 90 percent of K through 12 classrooms lack even basic access to telephone service. Telephone lines are used to hook up modems to the internet. When classrooms do have phone lines, schools are typically charged at the corporate rate for service. Schools and libraries in rural areas often pay more for access to information services because the information service providers are not located in the local calling regions, meaning they have to make long-distance calls.

A recent study conducted by the U.S. National Commission on Libraries and Information Science found that 21 percent of public libraries had internet connections. Only 12.8 percent provide public access terminals. Internet connections were 77 percent for public libraries serving a population base of more than 1 million, but declined to 13.3 percent for libraries serving fewer than 5,000. Maine, I might add, has a population of 1.2 million. The largest city representing Maine has no more than 80,000 people.

I hope that Members of this body would understand the importance and the value of maintaining the language that we have included in this legislation. It is so important to our future and to our children's future. It is fundamental that we, as a Nation, assure that all areas in America have access to essential telecommunication services for the future.

I, for one, will not vote to deprive schools and libraries and hospitals of the affordable telecommunication services that they need and require.

I hope that Members of this body will vote to defeat Senator MCCAIN's amendment. His amendment will go a long ways toward denying the important opportunities that we should afford our young people. No matter where they live in America, everyone should be entitled to have access to the information superhighway which will be so much a part of our future. So I urge Members of this body to defeat the McCain amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to speak just briefly on this amendment that Senator MCCAIN has offered to strike out section 310 of the telecommunications bill and indicate my strong opposition to that effort. The provision which he is intending to strike was added by the Senator from Maine in the committee markup with the help of the Senator from West Virginia and I know with the urging of the Senators from Nebraska and others. I think the provision that was adopted in committee is an excellent provision and one we need to keep in the bill.

I became interested in this set of issues because of the needs in my own State of New Mexico to provide telecommunications services to rural schools in particular, but also to rural hospitals and to rural libraries. In our State, we have one model program which came to my attention several years ago, and that is at the Clovis Community College on the east side of New Mexico. It is a 2-year school. They began a pilot project several years ago to provide instruction from that community college into nine of our rural high schools in that part of the State. We still have, today, in this school year which is just now ending, classes taught at the community college that students in those small, rural high schools are able to access in their own classrooms. That has been a very successful project and it is a model for what we ought to be doing throughout my State and throughout this entire country.

However, we are not able to do it throughout my State and throughout this entire country because of the enormous cost of taking advantage of telecommunications services. What is needed is special provisions, special rates so that educational services can be provided to schools at reasonable cost; and can be provided to rural hospitals and rural libraries at reasonable cost.

I am persuaded that technology can either be a great boon to mankind and to the people in this country in coming years, or it can prove to be a great divider of our people. Either it will help us all to pull ourselves up and realize the opportunity that is present in this country, or it will further divide the rich from the poor, the urban from the rural, the "haves" from the "have nots."

The provision that the Senator from Maine proposed in committee, which is now in the bill and which we need to keep in the bill, goes a long way toward helping us ensure that technology brings us together instead of dividing us. I do think it is essential that we take some action in this area as a public policy matter. You cannot leave everything up to the free market system.

I heard the Senator from North Dakota speaking, Senator DORGAN, earlier this afternoon. He was pointing out that left to its own devices, the free market system will provide technological opportunity and new technology and benefits to those who can pay the bill. We want that to happen. But we also want some access to that technology for those who may not be able to pay as much and that is what this provision is intended to do.

There is another example in my State which I just would allude to because it is a very small example but perhaps one that people can understand. There is a small community in New Mexico called Santa Rosa, which is east of Albuquerque on our Interstate 40. That is the community that you have to go to if you live in Guadalupe County and you want to go to high school. You have to travel to Santa Rosa.

North of Santa Rosa about 60 miles is the much smaller community of Anton Chico. If you live in Anton Chico you have school right there up through the elementary level, and then you have to get on a bus and travel 60 miles each way to go to high school.

What the school district there in Guadalupe County has done very effectively, is use telecommunications to provide instruction from the Santa Rosa schools to a classroom in Anton Chico, for those students who wish to continue past the eighth grade and take instruction in the ninth grade without having to travel all the way to Santa Rosa.

This has allowed them to keep students in that school for that extra year, and in many cases keep those students involved in education long enough that they will stay in school through twelfth grade.

This is dealing with a very, very real problem we have in New Mexico of students dropping out. They drop out for a variety of reasons, but one of the reasons that students drop out in some of the rural parts of our State is because of the physical problems of getting to the high school that they need to attend each day.

Modern telecommunications services can help us to solve this problem. One of the great opportunities that we have as a country, as we try to improve our educational system, is to take proper advantage of new technology to keep students interested, to help students raise the standards that they are achieving in school, and to eliminate the difference that exists between the quality of instruction in urban schools and that of rural schools.

In order that technology is successful or is able to help us in this regard, we need to deal with the problem of the cost of using that technology. This provision allows that. I hope very much we will keep it in the bill. It is one of the better provisions in this telecommunications bill and I think it would be a very sad day if the Senate were to agree to strike this part of the bill.

I compliment the Senator from Maine, the Senator from West Virginia, the Senators from Nebraska, and others who have worked hard to get this provision in the committee-reported bill. I urge my colleagues to keep it in there and to defeat the McCain amendment when it comes to a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want to try to give a sense of a little bit of the overview of this, and do it within a relatively short amount of time. I want to also say that there have been some very constructive conversations that have been taking place, which reflect themselves in the managers' amendment.

For example, there was a very constructive conversation yesterday afternoon involving the Senator from Maine, the Senator from Nebraska, Senator KERREY, myself, and others with, for example, Bell Atlantic, which represents my State, Ameritech, NYNEX. We were able to reach accommodation in a very constructive, positive way, in ways which are reflected in the managers' amendment. So I do not want people to think this is kind of a pitched battle only. There have been some people who have been trying to do some good work on this, on both the corporate and senatorial side.

I have to say we have heard some absolutely amazing statements from the Senator from Arizona and some of his allies. Make no mistake about what they are trying to do. They are trying to say to all of these telecommunications giants: Go ahead and charge exorbitant rates on the backs of America's schools and libraries and rural health institutions, and keep those community institutions off the ramps of learning and telemedicine. Or go ahead, in the alternative, and milk schools and libraries for as much money as you can get.

I can fly, under airline deregulation, from Huntington, WV, to Washington, DC, in 1 hour. But it is cheaper to fly from Washington, DC, to Los Angeles. I think you understand the point. Where people think they can put it to you and they are in a profitmaking business and they do not have a sense of corporate responsibility or a broader picture, as some that I have mentioned do have, they will do it. And they have done it. And it hurts.

We should reject that kind of thinking out of hand in this Chamber. Private telecommunications companies

are being given an open ticket in this bill to get into new businesses, exciting businesses, important businesses, making all kinds of profits and reaping incredible dividends. And I do not object to that. I do not object to that. I think what we are looking at is an extraordinary excitement.

I had dinner with the President of a computer company last night—with six of them, in fact. He said within a very few years any citizen of the world will be able to talk with any other citizen of the world directly, through e-mail or some such, based upon the name of the person, the service that the person provides, be it a business or a location. There will be worldwide direct person-to-person communication in as fast a time and with as much clarity as you pick up your local telephone to dial your mother-in-law.

All we are doing in our provision is to say, in return for this explosion of excitement and opportunity and profits, which create, indeed, more opportunity for all of that growth, for all of those profits that you will now be able to get your hands on, make sure that you bring libraries, schools, and hospitals along with you. That is called a fair deal.

Mr. President, let us be clear about what the Senator from Arizona is trying to do also with this amendment. This amendment strikes a dagger into the heart of Main Street U.S.A. Just about every issue associated with the telecommunications industry sounds incredibly complicated and confusing. As soon as you start talking about it, the jargon and the terms are from a world of their own—cyberspace, internet, on-line, you name it.

The Snowe-Rockefeller-Exon-Kerrey amendment in this bill—and the one that the Senator from Arizona wants to strip from this bill—has an extremely simple, basic mission. It is the way to make absolutely sure that America's schools, elementary and secondary, libraries and rural health care institutions are part of this information superhighway that is unfolding before our eyes. I do not think anyone is confused about what we mean when we say that schools, libraries, and rural hospitals should be one of this country's and this body's highest priorities. Without a doubt, I can say that is how the people of West Virginia feel—that our schools, our libraries, and our rural hospitals and clinics are a lifeline that we hold most dear. And that is true for all States.

The provision in this bill, and the one being attacked by the McCain amendment, which we hope loses, designates these vital institutions—again, schools, libraries, rural health facilities, and hospitals—as community users and then requires communications companies to charge this category of community user affordable rates for universal service. Through this part of the bill, we guarantee that America's children and library users and health care providers in rural com-

munities can take advantage of the exciting range of technologies that are in fact the new roads, the new interstates, to education and lifesaving medical information.

I applaud the Senator from Maine, OLYMPIA SNOWE, for her work in incorporating this provision into the telecommunications bill. It is her amendment. Together we presented this idea to our colleagues in the Commerce Committee, and her commitment to this idea helped win the day when we had the vote on our provision. Both Senators from Nebraska, Senators KERREY and EXON, have been stalwart partners in this work. This provision, section 3010 of the bill, is a major reason to enact telecommunications reform. Looking at it from my State's perspective, it is the major reason. This is a historic chance to ensure that schools, libraries, and rural health care providers will acquire affordable access to advanced communications services, not only now but in the future, and all kinds of possibilities that we can only begin to imagine today.

The telecommunications bill before us, carefully crafted by Senators HOLLINGS and PRESSLER, presents us with an opportunity that will not come again. It is time to unleash an industry into the realm of competition, innovation, job creation, product creation and profit. But in return, Mr. President, we should make sure that the most basic institutions of our community and our society can hitch a ride onto this great journey.

Once a few of the kinks and other parts of this bill are worked out—by that I mean things that are being worked on by the leadership as I talk—the passage of this bill will be good news for business, good news for workers and consumers, and good news for our country as a whole. And it will be great news for our basic institutions, the institutions through which all of us have to pass in order to achieve adulthood—schools, libraries, in this case rural health facilities—because they know they will not be left behind. If the McCain amendment passes, they will be left behind. If it is defeated, those schools, libraries, and rural health facilities will not be left behind.

The Senator from Arizona thinks this is a part of the bill that can be amputated or weakened. If that is what he thinks, let me be very, very clear about what that means to schools, libraries, and rural health institutions. You are telling the organizations that are the bedrock of America that they will just have to stay on the back roads of communications. The organizations with the big money and clout can speed their way onto that information superhighway as fast as they want. But the institutions that educate our children and our adults, that serve Americans with the keys to knowledge, that treat and cure the people of rural communities will have to settle for the back road.

Mr. President, I do not want anybody to be at all unclear about this. One of the things that we have learned in the Commerce Committee and in our own conversations is, if we think the world has begun to change in terms of telecommunications up until this point, we have not seen anything yet. Remember, I said a moment ago that every 18 months the capacity of computers has doubled for the last 30 years. That is going to speed up. So what we are talking about now is going to be far greater in the future. Therefore, what we deprive people of now will hurt much more in the future than we can possibly imagine.

Our provision in the bill says to these institutions that they will have their place on the modern roads of telecommunications—schools, libraries, rural health clinics, and hospitals.

We intend to open the new worlds of knowledge and learning and education to all Americans, rich and poor, rural and urban. Browsing a Presidential library, reviewing the collections of the Smithsonian, studying science or finding new information on the treatment of an illness are becoming available to all Americans through new technologies in their homes or at their schools, libraries and rural hospitals. And our provision, the one that the Senator from Arizona wants to strike, is designed to make sure that these links do get made to our children and citizens.

Mr. President, our provision is targeted. It promises affordable rates to institutions that are the heart and soul of the communities of the United States of America, and we all know it. Our provision deals with the new realities and opportunities that face schools and libraries and rural health institutions in the towns and States that we all represent—every single one of us—rural or urban.

We hear a lot about the explosion of computers in America's homes. But let us keep in mind that a lot of families cannot afford their own computers and equipment for their children.

They cannot afford that. This Senator can. Some other Senators here can. Most people cannot. We are talking, Mr. President, about thousands of dollars that many, many families in my State of West Virginia and elsewhere simply do not have for this kind of purchase. The Presiding Officer may be aware that in 1994, for the first time, the purchase of personal computers surpassed the sale of television sets in this country. The Presiding Officer may be aware that those who are on Internet are now 30 million, and that that number is growing at 10 percent per month, but it is not growing in Welch, WV. It is not growing in Alderson, WV, and it is not growing in the Presiding Officer's rural areas and some of his urban areas because the people do not have the capacity to get on line to join up with that information highway.

Schools and libraries are the institutions that serve our communities and that serve our children, no matter what. That is why we want to make sure that these institutions can count on affordable rates to get on line, to tap into telecommunications services and to bring in the learning and the information from distant places for our children and adults and other users to learn from.

No matter where one lives, we want every citizen to have a chance to go to the local library and visit a world of information available as a result of these new technologies.

I am very sorry to hear some talk of different ways to achieve our basic goal. Let us face it. Some communications companies do not want to be forced to offer rates to even the most basic institutions serving our communities. But let me be clear. Our approach is the simplest way to achieve the simplest goal I believe that all of us support—affordable access to communications that these community institutions in fact do need. The Snowe-Rockefeller-Exon-Kerrey part of this bill provides the way to ensure that elementary and secondary schools and libraries have access to essential universal telecommunications services, which will be defined, incidentally, by the universal service board described in this bill, at rates that are affordable. The affordable rate will be determined by the FCC and the State commission, depending upon whether you are talking interstate or intrastate.

What does this mean for thousands of elementary and secondary schools in America? A 1995 study by the National Center for Education Statistics discovered, to my shock, that only 3 percent of classrooms in public schools in America were connected to something called Internet, which is the whole future, a large part of the future—only 3 percent. Why? One reason has to be the lack of funds to even buy the equipment.

But another reason, which becomes more serious as schools do scrape together the money for the one-time expense of buying equipment, is their inability to pay excessive rates to hook into those services. It is one thing to have the computer on the table or the desk. It is another to have that hooked up to the wall and then through that wall to the other wall. That is expensive.

Look at the study of the U.S. National Commission on Libraries. They found that 21 percent of public libraries are connected to the Internet. And I thought that was pretty good news. But that figure then suddenly drops to 13 percent when it comes to public libraries in rural areas and small communities.

Why does it drop? Because there are libraries that do not have the money and will not have the money to pay commercial rates to be on-line. And therefore you just count them out of it.

I described in Pocahontas County—and I see my senior colleague from West Virginia here—the small, octagonal library that was barely scraped together, the only library in the county. It is one of the largest counties east of the Mississippi and it has about 7,000 people in it. And we scraped together the money to put that octagonal building up, all made of wood and put solar panels on the outside because fuel is expensive.

Now, of course, there is a problem; it rains 45 inches every year in Pocahontas County so the solar panels do not work, so they have to spend money on fuel. But that is typical of a rural community, of a library trying to make it. And then you ask them on top of that to have to pay money to hook up to these information systems. It cannot work and it will not work, and it is not fair to those people. Why is somebody born in a big city any better than somebody born in a small rural area? The answer is he or she is not. But I refuse to be a part of creating a two-tier society. We appear to be on our way to doing that in other ways. I do not want it to be done in terms of the ability to learn and to grow.

In West Virginia, our schools are determined, by hook or crook, to get computers into every one of our 900 elementary and secondary schools because our Governor has made it a priority and so has our Bell Atlantic company. They have made a special project of West Virginia. Classrooms in 50 different places already can connect to Internet. But this is not the way most of it works, Mr. President. This is a special set of circumstances.

Let us be clear. If the schools of West Virginia cannot count on affordable rates—and that is what this part of the bill is about—many of them are never going to be a part of the world that telecommunications offers regardless of what they have.

Teachers in West Virginia cannot wait to use these computers, Mr. President, and their links to distant places. They are excited about it. It transforms them as it transforms us as we get into the business of learning computers. They want to get into libraries. They want to get into colleges, to courses on every topic imaginable, to art collections, to whatever for their students. They have come before the Commerce Committee and boasted about what they can do for their children in schools when they have computers.

Think of what this means for children of small schools in remote towns in West Virginia or South Dakota or Alaska or South Carolina or Maine. Through their computers, students can take a language class that is being given in Texas, visit a museum's collection on Fifth Avenue in New York, communicate with a computer pen pal in Asia or Russia or South America, and explore the jungles and the rivers and the plains of distant places to learn about science and biology and na-

ture. Extraordinary opportunities, if it will be provided for them.

Most classrooms in America still look the same as they did 60 years ago when we wrote the first telecommunications act. They have chalk and blackboards, desks and chairs. Yet, with the tools of our modern-day office, how can we possibly expect our children to become productive, informed, innovative contributors to the economy out there, beyond the schools, when they learn with a blackboard and they do not have a computer? It will not work. If our children are to use technology thoughtfully and appropriately, they must have access to it in their formative years.

Our bill also has a special provision to guarantee access to the health care providers in rural communities, like rural hospitals and clinics, by promising them universal telecommunications services at rates reasonably comparable to the rates charged urban health care providers, language carefully worked out.

Why do we single out our health care providers in rural areas? Why do we do that? Because their remoteness makes it far more likely that they cannot afford the cost of telecommunications that are now being used to save lives and help train health care professionals and provide other critical services. Most of this is known as telemedicine. It is the wave of the future. It is what is going to hold down the cost of health care.

My own home State of West Virginia is a pioneer, as Senator BYRD well knows, in the frontier of telemedicine. Our mountaineer doctor television program that we are struggling as best as we can to make work has created a network using interactive video and other telecommunications services that hooks up two of our academic health centers to our large teaching hospitals, two veterans hospitals—two veterans hospitals are involved in this—and six hospitals in rural areas, all hooked up and linked together through this network. Senior medical professors and practitioners are guiding and training physicians at hospitals hundreds of miles away.

Just about a week ago, a resident in one of West Virginia's rural hospitals was confronted with a broken neck. He had never treated this resident, obviously, and had never treated a broken neck before. Thanks to that mountaineer doctor program, called telemedicine, the chief of emergency medicine at West Virginia University helped that resident through the steps of stabilizing that patient and preparing a transfer of that patient to a more sophisticated medical facility.

Through this telecommunications network, West Virginia's chief of neurology helped a medical student and primary care doctor in a Grant County hospital determine if a Medicare patient was suffering from Lou Gehrig's disease. This consultation by interactive video saved that patient a brutal

140-mile trip, allowed him to remain comfortable in his own community's rural hospital, and saved Medicare about \$2,500 in extra costs. Examples like this go on and on and on just in West Virginia.

I know from listening to statements made by Majority Leader DOLE, by the chairman of our committee, Senator PRESSLER, and my good friend, the Senator from Montana, Senator BURNS, that they are among many in this body who know all too well what telemedicine means to their States. Talk about being rural, you better talk about Montana, as well as West Virginia and Maine.

Again, the Snowe-Rockefeller part of this bill simply ensures that these institutions can count on affordable rates to take advantage of telemedicine and other unfolding communications technologies. Affordable telemedicine will allow patients in rural America to receive in their own communities the care they need. They will not have to suffer the costs and the hardship of travel, and they will be able to receive care at their local hospital, thus helping to preserve that hospital.

The Snowe-Rockefeller language is an economic development tool and it is an empowerment vehicle. It ensures that our children will become productive members in a world that is growing more technological and competitive every single hour. It ensures that our citizens in rural America will be able to stay in their communities and receive quality health care. It ensures that we will not create information haves and have-nots in our country.

I will close, Mr. President, and I apologize to my colleagues for the length of what I have said, but I wanted to lay this out. One of our colleagues who is opposed to this bill and who supports the McCain amendment, which I hope will be defeated or tabled, said on this floor earlier that rural hospitals and rural clinics already have access to affordable rates. That is absolutely without any merit or basis in truth whatsoever. The lack of adequate telecommunications infrastructure is a major barrier to the development of telemedicine and those systems in our rural communities.

Let not that statement get by. Rural areas have the equivalent of a dirt road when it comes to telecommunications. When Texas implemented one of the very first telemedicine projects in the country, they found that people still had party lines in west Texas—party lines. They had to install dedicated T-1 lines at very significant costs because T-1 lines are powerful instruments. Basic startup costs are coming down, but according to all the experts in this field, transmission costs must be lowered to make telemedicine economically feasible.

The small rural hospital in West Virginia was told that it would cost \$4,300 a month to hook up with a major, larger hospital for administrative and qual-

ity assurance support. They decided they could not afford the technology, and so they did not do it. And there you have it.

The University of Arizona, not a small rural hospital, established the Arizona international telemedicine internetwork in 1993. They used straight telephone lines and they used compression to transmit static images. They say cost is a barrier to upgrading. According to them, their carrier—in this case U.S. West—has been inflexible in making any sort of cost concessions.

Mr. President, I have said what I want. There are many others on the floor who want to speak. I was determined to try and give a broad overlay of what the Hollings-Pressler bill does, and I have done my best to do so.

I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I rise today in support of the language that was passed by the committee, which my friend, the Senator from Arizona, is proposing that we strike. I would like to speak to that part of the bill that makes advanced telecommunications more affordable to public schools and libraries.

During the consideration of the telecommunications bill last year, I offered legislation very similar to the language that we are considering today, to ensure that every school and classroom in the United States has access to telecommunications and information technologies. I proposed an educational telecommunications and technology fund to support elementary and secondary school access to the information superhighway.

Regrettably, last year's telecommunications bill was not taken up by the full Senate before adjournment. The provision in the bill before us, introduced by Senators SNOWE, ROCKEFELLER, and KERREY of Nebraska, will make advanced telecommunications connections more affordable for schools and libraries. Specifically, the provision allows elementary and secondary schools, as well as libraries, to receive telecommunications services for educational purposes at an affordable rate.

Currently, schools all over the country, including those in my own State of Virginia, are forced to pay business rates for access to the information superhighway. That means that schools are subsidizing residential customers. Without more affordable rates, schools, by the thousands, will not have adequate, and, in some cases, not have any access to the Internet. As a result, too many American children will be left by the wayside.

For those of our colleagues that have any doubts about the value of electronic communications in the classroom, I challenge them to sit down at a computer with Internet access and surf. They will be visiting one of the most up-to-date and fastest growing li-

braries in the world. You can chat with experts from across the globe. You can set up the video link with teachers at distant schools using a small camera costing as little as \$100. You can share data or results in a joint research effort spanning continents. You can take an electronic tour of the White House, or visit the so-called web page of a Member of Congress. I have such a page, and many of our colleagues have those, Mr. President. You can even see images of molecules or galaxies. The possibilities are endless.

In discussions with school administrators, it becomes clear that students are fascinated by the Internet. Students that might otherwise be indifferent are eagerly pursuing new subjects and sharing their newfound knowledge with the global community of students.

Simply put, Mr. President, the child with access will be at a distinct advantage and better prepared for future employment. And those without access are simply going to be left behind.

We cannot afford to let our school systems slip behind those of our leading competitors when the technology is at our fingertips—the technology that was pioneered here in the United States.

Mr. President, I urge our colleagues to support the most cost-effective education we can offer our Nation's children. I urge my colleagues to support the Snowe-Rockefeller-Kerrey provision and oppose the amendment offered by my friend from Arizona.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I see my friend from West Virginia, Senator BYRD, on the floor. I will be brief, I say to my colleague. I know he has been waiting for some time.

I just have a couple of comments to make. Our States have done a lot in this area. I know that, for example, some of the States in the South have done things.

This describes that in the State of Alabama, there is pending approval within the next few days where the Educational Network Service will offer DS-1 and 56-KBP service for any educational institution at a discount rate.

In Florida, there is legislation waiting signature, where the LEC's are required to provide advanced communication services to eligible facilities, including public universities, community colleges, area technical centers, public schools, libraries, and teaching hospitals.

In Georgia, the Public Service Commission approved the Southern Bell reduced rate telephone service for schools, called the Classroom Communication Service.

In the State of Kentucky, the State government provides high-volume discount access to schools, hospitals, libraries, and government agencies.

In Louisiana, all schools in Orleans Parish receive an additional 33-percent

discount, and public and parochial schools pay residential rates as opposed to business rates.

Mississippi has two special pricing arrangements targeted toward education in the classroom communications services, distance learning, and transport services.

South Carolina has somewhat the same thing.

Tennessee has in-classroom computer access service, distance learning, video transport service, et cetera.

Mr. President, the fact is that nearly every State in America has some kind of accommodation for this. I am appreciative of the fact that the Senator from West Virginia may not share my view about the role of the Federal Government versus the role of the State government, but the fact is that the State governments, who I think are much better attuned and much more cognizant of the needs of their respective States, are doing these kinds of things. To my view, this is vitiating the requirement for, again, another unfunded mandate, which this is.

Mr. President, I heard the Senator from West Virginia, who makes some very emotional arguments that there are some libraries that will never be able to afford a computer, or some hospitals. Who are they, Mr. President? So to cure the problem we are just going to give a blanket agreement to wealthy, private schools, wealthy hospitals, wealthy libraries. There is no means testing. If the Senator from West Virginia and the Senator from Maine had, in any way, brought in some kind of provision for means testing as to who needs it and who does not before we proposed this unfunded mandate, I would have been much more open to some compromise or agreement on it. I am sorry that virtually all schools, all hospitals and libraries are going to receive this.

Mr. President, I think we are being a little discriminating in our morality here. I would like to see the Disabled American Veterans have this same kind of facility. They are people who have fought and served and sacrificed. Do they deserve something? I do not see them included. What about the Veterans of Foreign Wars and the Salvation Army? They are organizations I have admired enormously. They get all of their funds from contributions, at least about 95 percent of them.

What is it that makes us discriminate with these institutions and not with others? I understand that—and I was not told this directly by the Senator from Maine—she intends to make a motion to table this amendment. If this amendment is tabled, then I may have an amendment expanding this to other needy and deserving Americans and groups of Americans that also may be as equally as deserving as private schools are, for example, or as wealthy hospitals are, or the Getty Library.

So I think that the flaw here, Mr. President, is who are we really trying to help, and who are we not? It seems

to me that there are many who are deserving of our help who are not included in here, and there are many who are not who are included. I would like to see us be much more discriminating.

I believe the whole thrust of the American people is that they believe local government is best. I would like to see the States be able to continue what they are doing and tailor what is best for their respective communities and localities and counties and cities and towns, rather than the Congress acting in a far more sweeping and all-encompassing fashion.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I thank the Chair.

I rise in strong support for the provision authored by my distinguished colleague from the State of West Virginia, Mr. ROCKEFELLER. I oppose the attempt to remove it from the bill.

It has long been an axiom in the development of America that rural America be provided basic telephone services, under the concept of universal service. Universal service is, again, a central part of the bill before us. Mr. ROCKEFELLER's amendment, together with the distinguished Senator from Maine, Ms. SNOWE, attempts to ensure that our schools, our libraries, our health care facilities have access to the best that is available across our country for the well being of our children, our elderly, our rural dwellers at affordable rates. This amendment allows a child in Beckley, WV, to access the Library of Congress to enhance his education, allows the provision of medicine from the best facilities in America to be available to health care providers in communities which cannot afford to have all facilities available at their fingertips. It is a mechanism to enhance standards throughout the country. It is a force enhancer, a multiplier, an advanced bootstrap for rural America at reasonable cost.

I have, for the last several years, supported funding for medical doctor's television, so that experts in universities can conference with doctors in rural remote areas so that they have the best that medicine has to offer in the State. The Rockefeller provision extends this concept for all citizens to have access to the best that is available across the country. This is the fruit of the technological and telecommunication revolution that is meaningful, that makes sense, and will build human capabilities and infrastructure in our land.

I commend my colleague for this provision. It is a builder of communities throughout our land, a benefit that our technological progress gives us as a society. I support the provision, and urge my colleagues to defeat the amendment.

I yield the floor.

Ms. SNOWE. Mr. President, I just want to address a couple of points that have been raised by Senator MCCAIN because I think it is important to address his comments with respect to what would be provided, and to whom,

under the manager's amendment that was incorporated in the legislation which Senator MCCAIN seeks to strike.

I cannot think what would be more in the public's interest than schools, libraries, and hospitals. As I said earlier, in the last Congress, the Committee, on a nearly unanimous vote, sought to provide universal service to zoos, aquariums, and museums. We do not include those entities under this language because we think we should strictly limit it to very essential institutions, schools, libraries, and rural hospitals.

Universal service happens to be a national priority. That is what this issue is all about. Senator MCCAIN said leave it to the States. States are involved, in the sense that there is a joint board in this legislation that will help determine the rates for the communities under the universal service provision.

But this happens to be a national priority, a national issue, and it is too important just to leave it to the States on an ad hoc basis and say whatever happens, happens. The States are certainly doing their best. They understand the importance of this issue, and have been very innovative and progressive. But they cannot do it alone. Presently, there is a disparity between the States.

We all recognize how important the information age is to the future of this country and to individuals and to families. It is so important, and therefore I think it requires a national policy and should be established as a national priority. Certainly, universal service can be supplemented by the States. The fact is, they cannot do it alone.

This is a major telecommunications policy. If that was not the case, we would not be here discussing today the amendment before the Senate.

But it is an important telecommunications policy. It is essential that we establish some parameters to universal service. There may be a day when it will not be required. But right now, we need a transition with respect to telecommunications. That is why the universal service language becomes an imperative.

We have to recognize the changes that have evolved and will continue to evolve over time. We have to anticipate the needs of America. I cannot think of entities with a greater need to affordable telecommunications services than schools, libraries, and rural hospitals. I never would have expected anybody to have questioned that.

The language in the bill extends the idea, included in the Communications Act of 1934, of universal service. That is all we are saying, with the language in the bill, sponsored by myself and Senator ROCKEFELLER and Senator KERREY and Senator EXON and adopted by committee. The language simply extends universal service to schools, libraries, and rural hospitals.

Under the language, essential telecommunication providers will get reimbursements. They can recoup the

discounts given to these public entities from the universal service fund.

In the case of schools and libraries, the discount is an amount necessary to ensure affordable access to telecommunications services for educational purposes. This is a modification we made in the managers' amendment that was offered last night.

By changing the basis for the discount from incremental cost to an amount necessary to ensure an affordable rate, the Federal-State joint board in conjunction with the FCC and the States have some flexibility to target discounts based on a community's ability to pay.

The discounts will not be indiscriminate, as the Senator from Arizona suggested in his previous remarks. There will be some parameters, because we do not have an unlimited fund.

There have been a number of letters from supporters of the language in the bill that various Senators have received. I would like to quote from a couple of them. I think it gives everyone an idea of the importance of this issue. One letter that I will quote from is from an education technology specialist.

She writes to one Senator, and I received a copy of this letter:

Two key issues for rural States like ours are affordable and equitable access. Cost is the barrier cited. A recent survey shows only 3 percent of the Nation's classrooms have access to Internet or use information services for instructional services. Preferential rates for school and libraries at cost would be a step toward eliminating this barrier. As a Nation and as a State, we must recognize the need for improvement in our educational system and seize the opportunities offered by technology and telecommunications. The dream of access, equity, and excellence for all Americans for life means acting now to ensure these essential elements for better education, bound in decisions currently under consideration. We urge you to make certain the voices of K through 12 educators are heard and their needs addressed in the drafting and passage of this legislation.

In another letter:

I hope that Members of Congress will stop and consider the impact that schools and libraries had upon their lives. Then, if they will project what these entities can provide when they are equipped with appropriate connectivity, we can begin to understand the quality of true education our young people will possess that will equip them for bright futures. With your help, thousands of young lives will be able to experience the rush that comes with free exploration of knowledge sources.

And then we received a list of different associations that are supporting this legislation, again, I think, expressing the thought that this legislation and this provision is so important to the future of this country. The organizations are part of a coalition supporting affordable telecommunications access for our Nation's schools and libraries, and there are a number of different associations. I am not going to read them all, but I ask unanimous consent to have them printed in the RECORD, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT AFFORDABLE TELECOMMUNICATIONS ACCESS FOR OUR NATION'S SCHOOLS AND LIBRARIES

Supported by a coalition including:
American Association of Community Colleges.

American Association of School Administrators.

American Association of School Librarians, a division of the American Library Association.

American Council on Education.

American Federation of Teachers.

American Library Association.

American Psychological Association.

Association for Advancement of Computing in Education.

Association for Educational Communications and Technology.

Association for Supervision and Curriculum Development.

Center for Media Education.

Coalition of Adult Education Organizations.

Consortium for School Networking.

Council for American Private Education.

Council for Educational Development and Research.

Council of Chief State School Officers.

Council of the Great City Schools.

Council of Urban Boards of Education.

Educational Testing Service.

Instructional Telecommunications Council.

International Society for Technology in Education.

International Telecomputing Consortium.

National Association for Family and Community Education.

National Association of Elementary School Principals.

National Association of Secondary School Principals.

National Association of State Boards of Education.

National Education Association.

National School Boards Association.

Organizations Concerned about Rural Education.

Public Broadcasting Service.

Software Publishers Association.

The Global Village Schools Institute.

The National PTA.

Triangle Coalition for Science and Technology Education.

United States Distance Learning Association.

Ms. SNOWE. For example, the American Association of Community Colleges, the American Association of School Administrators, American Association of School Librarians, American Council on Education, American Federation of Teachers, American Library Association, the American Psychological Association, the Council of Urban Boards of Education, the Educational Testing Service, the National Association for Family and Community Education, National Association of Elementary School Principals, the National Association of Secondary School Principals, the National Association of State Boards of Education, the National Education Association, the National School Boards Association, the National PTA, the United States Distance Learning Association.

That gives you an idea of the cross-section of organizations and associations across America that support this

language. Even I was surprised at the extent to which the language that we incorporated in this legislation received such strong and widespread support.

The FCC Chair, Reed Hundt, recently stated:

There are thousands of buildings in this country with millions of people in them who have no telephones, no cable television, and no reasonable prospect of broadband services. They are called schools.

This all goes to show how important this issue is. I hope that Members of this Senate will oppose the McCain amendment and will continue to support the provision that is incorporated in the managers' amendment and in the underlying legislation that was supported by members of the Commerce Committee—not a unanimous vote but a broad vote—because this is so important to the future of this country.

Mr. President, I move to table the McCain amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Several Senators addressed the Chair.

Mr. HOLLINGS. Mr. President, I wanted to suggest the absence of a quorum. The distinguished Senator from Nebraska who cosponsored the amendment has not had a chance to be heard.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Ms. SNOWE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection.

Mr. PRESSLER. Reserving the right to object. I will not object.

The PRESIDING OFFICER. You cannot reserve the right to object to calling off the quorum.

Mr. PRESSLER. I withdraw my request.

Ms. SNOWE. Mr. President, I ask unanimous consent to withdraw my tabling motion and to vitiate the yeas and nays.

Mr. PRESSLER. Reserving the right to object, and I will not object. Senators are doing different things. We are trying to give a little advanced notice when these votes will occur. I am not trying to cut anybody off or anything of that sort. I am wondering if we could vote—I ask the Senator from Nebraska when he would suggest we have a vote.

Mr. KERREY. I appreciate that. What I would propose is that I make my statement. We have been led to believe there are a couple of other people who would like to speak, but if they do not make it down to the floor by that

time, we might be able to set a time relatively quickly after I get done talking. I just do not know whether there will be other Members actually getting down, having said they are coming.

Senator MCCAIN asked earlier. I said it could be 6 or it could be 8. I think we pretty well heard most of the arguments on this particular proposal.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine to vitiate the yeas and nays and withdraw her motion to table?

Hearing none, it is so ordered.

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent for an agreement to vote at 5:15. Or would that be objected to?

Mr. KERREY. I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. KERREY. Mr. President, I say to—

The PRESIDING OFFICER. Does the Senator from Nebraska seek the floor?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. You run a tight ship, Mr. President.

I say to the Senator from South Dakota, I am not trying to unreasonably object. I am uncertain as to how much longer is a reasonable time.

I myself would be surprised if I am going to talk for 30 minutes, and if no one comes down here at that particular time, between now and the time that I stop I think we can put a time on this pretty quickly.

Mr. President, again I hope colleagues understand that this bill is being asked for largely by American companies and corporations that would like to do things, lines of business they currently cannot do. I have heard colleagues after I have said that say, no, we have lots of people in our State who really understand and would like to have this.

That may be the case indeed. On this particular section there are quite a few people who understand the potential and positive impacts. Indeed, I would argue that—perhaps somebody has a countervailing argument—but I would argue, of all the sections, this section has more Americans excited about what might happen if this proposal were to become law. There has been more straight grassroots citizen support for this section of the bill than any other section of the bill.

We have heard from companies, we have heard from a whole range of people. The Senator from Arizona raises some valid and interesting points. I do not dispute all the points he raised.

But one of the points that is raised, dealing with K-12 education, where we have the largest amount of support, the distinguished Senator from Maine earlier read off a list of organizations that are in support. I will not go through all these again: American As-

sociation of School Administrators, the American Federation of Teachers, the National Education Association, school boards, and other people who understand that, if you leave the status quo in place, these schools are going to get further and further behind. That really is a given. It is not going to go away.

When the distinguished Senator from Arizona comes and says there is lots of progress being made out there, it is true there is progress being made. But colleagues should not be taken in by that argument because this law takes away the incentives that schools have used to get State public service commissions to negotiate for them. That is what has been going on.

What has been going on in Georgia and other States is that they have negotiated and given the regional Bell operating company the right to price differently in exchange for connecting the schools. They did not do it for eleemosynary reasons or as a consequence of saying we can give away a little of our cash flow. They did it to get something in return.

Mr. President, this legislation goes into every State public service commission, and says you shall allow price cap regulation. There is no more incentive for an RBOC to negotiate the sort of things we have seen happen in State after State after State.

So understand that the reason that section 310 is needed in this legislation—and it is contained significantly, I point out to colleagues, in the title III portion that calls for the end to regulation—is because in other sections of the bill, we take away the very incentives that have been used to get the progress that we have been seeing in other States.

So do not come to the mistaken conclusion that if this title is stricken you are going to continue to see the kinds of progress that we have seen in States. You will not see it. It will stop.

I would like to make a point and talk a little about why we need this. Again, I understand there are lots of other areas of concern—libraries, hospitals, and so forth. My No. 1, 2, and 3 concern is the educational environment. The question is why is it important? Is there a sense of urgency attached? Is there any reason for us to be excited about this? Is there any reason to believe that the promise of this technology will be different than the promise that lots of us heard 40 years ago when people were saying we are going to put this television set in your home. They bring a television set into your room, into your home. Television was going to be a great learning technology. We are going to learn more. That was the idea. In some cases, with children's educational television, we have seen some improvement in test scores. But for many of us adults, we hold I think the correct conclusion that television has produced a distraction, larger and larger volumes of time being consumed with young people watching television, not doing home-

work, not doing the work required in school, and as a consequence, people say maybe this technology is just another one of those items, just another promise to do something, another easy solution to the difficult work of education.

Mr. President, this technology is different. Computer technology is much different than we have seen in other educational applications, in other technology applications. We can cite research. You can use anecdotes. You can talk about any measurement you want out in your local community. But computer technology, particularly when it is network and particularly when there is access to a database outside of the school, particularly when the network concludes a connection between the home and the school itself, there are advances in mathematics, impressively so. There are advances in reading, almost counterintuitive for those of us who have seen this technology. How can you possibly learn to read and write better? But there are improvements in test scores in both areas when the technology is available to young people.

The fact of the matter is this technology does offer substantial hope to do something for public education that a lot of us have begun to believe—we are wondering whether anything is going to work. We are wondering whether anything is in fact going to do something to turn around what we see as decline in test scores in many significant areas.

I note that the National Assessment of Educational Performance not long ago said that high school seniors, a full third, cannot read at the basic level; that approximately a third can read at the proficiency level or above, down 10 percent from 2 years ago. You cannot graduate from high school anymore—and half of our young people will graduate and go right into the work force and are not able to read and write, and do multistep mathematics, to be able to think in creative, in complex ways, and expect to earn very much in the workplace. It may have been true when most of us went to high school and graduated that you could do that, but not anymore. Today you have to know more. You use that computer in the workplace, and you have to know a lot more besides the sorts of things that were required when I got out of high school in 1961.

Mr. President, there is an urgency attached to this section. That is what I am trying to describe to my colleagues. Not only is there a demand for it. Not only in this case do we have people in the community saying: Senator KERREY, this is one where I know it is going to help. I am not certain about all the rest, and I am a little bit nervous about what is going to rate telephone or cable. I do not know about all this promise about new jobs. I have some stats I am going to talk about later when I talk about this promise of employment. An awful lot of people

were turned out onto the bricks as a consequence of technology. They get a little nervous when I tell them there are going to be a lot of jobs. They do not know about all of that. They say to me, I know because I have seen computer technology work in my home. I have seen it work in the school. I know it can work. We are trying to network it inside our school buildings. We are trying to make progress there.

What are we up against? We are up against a number of things. The people are saying to me and with schools that I have worked, that the principle among those things is that if you want to fund it, you have to fund it out of property or sales and income taxes.

I am going to get to a subject that will probably put my colleagues to sleep because I talk about it perhaps too much; that is, how we fund not just education, but how we fund other things that we try, other services that we try to provide to our people. In the State of Nebraska, we have about 275,000 people in the K through 12 environment. We have 275,000 people over the age of 65. We spend \$1.3 billion on that K through 12 environment, and \$4.5 billion on people over 65. Now, the source of revenue for retirement and health care is payroll taxes. It is relatively easy to get that from people in the work force; apparently about 16 percent of total wages. The source of revenue for the schools is property, sales, and income tax.

The incremental cost expenditures from the schools will be \$50 million against the \$1.3 billion base. On that retirement and health care data, the differential is going to be close to \$500 million. The reason the cost increase is so low is that the people at the local level are saying: We are fed up with property tax increases, and we are not very excited about sales and income tax increases, either. And our schools get squeezed.

I had a rather unpleasant encounter with an educational organization that said this is not going to be a big deal because it is only going to address the cost to the schools, about 16 percent, and phone activity is not a problem, and affordable dial tone is not a problem. It is a problem. It is true that States have been able to negotiate with the public service commissions. But that only affects interLATA costs. It does not affect long distance calls, and it does not let these kids get on line and access databases in long distance education. It does not provide the kind of high-speed activity these schools need.

We are not asking for a bailout. Schools are still going to have to put a ton of money in software, a ton of money in hardware. They are going to still have to make a good-faith effort and contribution in order to make this work. This is not a subsidy that is unreasonable. It is a subsidy that is not only quite reasonable but it is a savings. If we do not provide it, we are going to lose a tremendous opportunity

to bring education technology to our children and give them, I think, a learning tool that can enable them to increase math, increase reading, increase verbal scores. I have seen it work. I have looked, as I said, at research data. I have seen anecdotal evidence, as well. It in fact gets the job done.

Mr. President, one of the arguments again that we hear a lot, or at least I have heard a lot—I am not sure how much it applies to this particular amendment; perhaps it does, perhaps it does not; I believe it does—is that we are giving special attention to a particular group of people, and that they do not deserve the special attention. I am not really talking about the comments of the Senator from Arizona. I heard comments made by others. Why would we want to single out one particular group? We have 100,000 school buildings in the public school system, 16,000 school districts out there, 45 million students, government-run operations, pure and simple, and we have to figure out some way to help them out.

But what very often is annoying to me is the argument—and I have heard it from the business sector, mostly; it is made by businesses who have been given special protection, who have been given a monopoly franchise, and now are complaining when we give somebody else special attention. It is not like the RBOC. It is not a mom-and-pop started in Charleston, SC. This is a regulated monopoly. It is not like they started from scratch or something. It is with tremendous cash flow, and tremendous resources.

I am prepared to let them compete. I am prepared to provide deregulation to them so they can get out there and go head to head. I think there will be benefits from it.

But please spare me when it comes to trying to help 45 million school children with this argument that I am giving them special attention. For god's sake. You would not even exist were it not for a franchise granted to you by the people of the United States of America. At least, that is how I see it. I would be very interested to hear, and I asked earlier if the Senator from South Carolina would be willing to give his own description of that.

It seems to me that when a regional Bell operating company—I have good friends, at least I used to have good friends in that particular sector—when they come and say why would you want to provide special attention to these schools like this, it seems to me that I am deserving of saying to them, well, did we not give you a special franchise? Did we not give you a special right to do business in a monopoly way? And did we not keep all the internet competition away so that you could do all this stuff over the years?

Am I missing something, I ask my friend from South Carolina?

Mr. HOLLINGS. If the distinguished Senator will yield, I think he is right on target with respect to the regional

Bell operating companies. They are not just a guaranteed monopoly but a guaranteed return on investment.

But they used to have a percentage return of profit, and they did not like that because they found, quite to the point, if they could get what they said, pay caps, the actual size and operation growing, minimizing, of course, the general cost of operation, and superimpose on that downsizing, which is firing, to me, the employees—and everybody thinks this is a wonderful thing, that everybody is downsizing, but that is what they are doing, and so they are increasing their return on investment but more particularly what they call the operating cash flow margin. That is the principal measure of the financial worth of a company by Wall Street and the financial community.

Specifically, I say to the Senator, I have a chart—I swore I was not going to use charts, but I am going to have to get this one blown up for the Senator because I have the operating cash flow margin by industries from computers to chemicals, household products, autos, trucks, alcoholic beverages, long-distance companies, the soft drink industry, semiconductors, railroads, drug industry, electric utilities, petroleum-producing corporations, and, of course, the regional Bell operating companies.

This is a small sort of chart. We will have it enlarged. But you can see right at the bottom edge, in the lowest so-called operating cash flow margin of 10.3 percent is computers. Come right on up midway, 19 percent for the long-distance companies, and for the regional Bell operating companies it is 46 percent. It is above all the others.

If you want to get to the actual return, you would find in Standard & Poor's in a composite of the top 1,000 corporations in America, their average would be 10.4 percent, but the regional Bell operating companies is 16.6 percent.

Now, if you want to go then up to their cash flow margin, as they call it, that would be 46 percent rather than the average of 34.1. If you go up to the actual operating income margin, it is 26 percent with the U.S. average of 10 percent.

But they tell me in the financial community, if the Senator will give me just a second more, it is not only the 46 percent, but we had it in those hearings that the RBOC's had a cash flow of about \$5.5 billion. They paid some \$600 million in taxes, Mr. President. I think the distinguished Presiding Officer was there when this was brought out. Of the \$5.5 billion in cash flow, \$600 million was in taxes, \$1.6 billion was paid to keep Wall Street happy—that was the dividends—which left them \$1.7 billion to invest.

Excuse me. That \$1.7 billion they re-invested in upgrading the equipment and optic fibers and everything else of that kind. It left them \$1.6 billion in their back pocket so they could walk

into any bank: I have \$1.6 billion in my back pocket, and I would like to make a loan.

Well, heavens above, what financial power. And they wanted to know a little while ago why we had to have the public interest test included in this thing. With that \$1.6 billion in their back pocket, they are already into New Zealand. They are putting in communication links between Moscow and Tokyo. That is these telecommunications companies. They are in Hungary.

I landed last year, I say to the Senator, in Buenos Aires, and the Ambassador came out and met me in the car. As we were driving into town—this is Ambassador Cheek, an Arkansas native—he turned to me, and he said: Well, our section is doing good.

I said, how is that?

He said Bell South here operates—I think they have about 14 to 16 million in Buenos Aires, and Bell South runs the local telephone, and they are getting a tremendous return on their investment. I know they are into Mexico and everything else.

I commend them. I do not know of a better operating company in my own sort of hometown, Bell South and Southern Bell. But they should not come here—and I do not think, frankly, these companies are coming.

I find it, I say to the Senator, as a result more or less of pollster politics. You go to run for Congress and the Senate, and the first thing you do is you get a poll and the poll gets you five to seven hot-button items. Crime, everybody is against crime. Taxes, everybody is against taxes. Jobs, everybody is for jobs. It is a jambalaya of the same nonsense, where you have the contract.

One thing, this communications bill, you know what, is not in the contract. And you know why? Because this communications bill is going to do something. You can take that 10-point contract, it is all process. It is all procedure. It is all pap. It is all line-item veto, term limits, paper shuffling or whatever—unfunded mandates, balanced budget constitutional amendment. It is all process, making sure you do not do anything but what the pollster tells you to hit and identify. Do not ever be for or against. Identify with the problems but do nothing about them.

Here we are trying to do something about them and you know what they come up with? They take the very responsibility they have fundamentally for education, for the schools, for the libraries, for the nonprofit health care, community health service, rural health centers and everything else and talk against them, using expressions like "micromanagement, meddling, bureaucracy" and everything else, like somehow something was wrong with that.

I thought that is what we were here for. If we are not here for the community health centers, who is? If we are

not here for the schools, where are they going—all private schools with vouchers and people with money running around butting into each other? We are going the way of England. We are getting two levels of society now. Those with jobs are making 20 percent less today than what they were making 20 years ago.

And the census figures, I say to the Senator—I will yield right now—will show that in the age group 17 to 24, 73 percent of that age group cannot find a job or they cannot find a job outside of poverty. And here the people's representatives are coming here and talking against the people's institutions because the pollsters tell them to do that. It is a sort of an ideological bent: Get rid of the REA, a magnificent entity; get rid of public communications that is doing some good. And they tell you, yes, you know, public broadcasting—sure, it can make a profit. We can sell those VHF channels like gangbusters, and they can put on some more of the giggle shows or whatever you call them. You turn them on and there is some little wise kid about this high and the grownups tottering around, the wise kid makes the smart remark and everybody goes "hee-hee-hee" and that is all you get unless you have public television.

So I think that the distinguished Senator is getting right to one of the most valuable discourses I have seen because you have seen the rural Senators come with the metropolitan areas saying since we have the satellite and you can beam down into the rural area as well as down into the urbanized megacity you do not need these things—you do not need schools; you do not need hospitals; you do not need libraries anymore. And if you do, let the market forces operate them.

Mr. KERREY. I appreciate that. In fact, I am sure people will be interested—and I believe there is a lot of promise of jobs, by the way, in changing our regulation and going more to competition.

But do not count on the jobs coming from the companies that are typically coming up here on Capitol Hill urging us to do one thing or another. I have some interesting facts in that regard.

Regional Bell operating companies in 1984 in the United States of America employed 556,561 people. In 1993, that was down to 395,639. They dropped over 160,000 employees in that period—160,000 employees in approximately 10 years. The LEC's/Independents went from 180,000 down to 140,000. So now you are down 200,000 employees over that period of time.

The cellular industries everybody talks about really added a whole bunch of employees. They have added 40,000. So now you are back to a net loss of 160,000. So you hear from the RBOC's, LEC's and you hear from cellulars. They are talking about jobs saved. I am down 160,000 thus far. Are you going to keep going in that direction and give me more of the same?

The broadcast industry has gone from 170,000 down to 150,000, so another 20,000. Now I am up to 180,000 jobs. I bet you an awful lot of those people did not get jobs that paid the same as they previously had.

In cable television, you see increased employment in cable television, 67,000 or so up to about 109,000. So you are still about 150,000 jobs or so down.

We have the computer industry that we talk about an awful lot, a surprising number. I heard—I cannot remember who it was—a colleague come down and talked about we ought to do it like the computer industry has done. For your information, the computer industry in 1985 employed 542,000 Americans. Guess how many employees in 1993? 400,000 employees, down 150,000. When you are at home in your hometown meetings and they say to you, "Senator, what is this telecommunications deregulation bill going to do for me?" and you say, "Jobs," you better be prepared to say where those jobs are going to come from. You better be prepared to answer that person who says, "Thus far, technology has not been all that kind. I used to make \$40,000 a year and now I am down to \$15,000. How is that working for me?"

I hope that this particular attempt to strike this section will be rejected.

As I said earlier, the reasons I would cite are the following: One, it is about the only hope we have, I believe, of improving the quality of education both in the home and in the school. It is working. It is working out there.

Secondly, if you believe that the progress that is being made out there in the States right now is exciting, understand that the language in other sections of the bill takes away the incentives the RBOC's have had to do those things. It truly does. There is no disputing that. In every single State—every single State—where this kind of effort has been made, it has been made in exchange for regulatory relief, particularly going from rate-based rate of return to price caps. The premier example is in the State of Georgia, but it is not alone.

Finally, Mr. President, this well-meaning attempt to strike this section should be tabled because this is one of the few pieces of this legislation where, indeed, we are hearing from our citizens, where, indeed, we are hearing from mothers and dads and the PTA, the PTO that are coming to us and saying, "This one is going to work. We're trying to figure out how to make computers work in our school. We are up against the property tax lid, we are up against sales and income. We are trying to figure out how to do it, and this is going to give us a little help."

Do not believe it is a giveaway. These schools are going to make a maintenance effort on top of that. They have to. They have to spend a lot of money on software and hardware. This is just a little bit of help asked for by the companies that, indeed, can afford to do it given what this legislation allows

them to do, given what this legislation provides for them.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

THE PRESIDING OFFICER (Mr. INHOFE). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, one note on commending our distinguished colleagues. The Senator from Maine, the Senator from West Virginia, and the Senator from Nebraska have joined together on this amendment and given leadership.

It should be noted that when we started, easily 4 years ago, the then distinguished Senator from Tennessee, AL GORE, was the one who paraphrased the "information superhighway." Part and parcel of his drive for the information superhighway was just this: education, hospitals, libraries, public entities and public interest groups that we had even expanded in the original treatment some 4 years ago in our Committee of Commerce. Vice President AL GORE has to be credited with this part of the information superhighway.

We had at our hearings this year the Secretary of Education, Secretary Riley, come forward and testify on this particular score outlining the various uses and needs of this particular consideration by the public to go ahead and take entities that are on a non-profit basis—public schools are not for profit, not-for-profit hospitals, libraries and otherwise—and give them consideration, which is just like the universal service fund, to get the communications facilities out into the rural or sparsely settled areas.

So I commend Senator SNOWE, Senator ROCKEFELLER, and Senator KERREY, but I particularly wanted the record to show that the Vice President of the United States has been the leader on this information superhighway, and particularly the educational, health and library facilities to be afforded these particular services at a reduced rate.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to the McCain amendment. I want to commend the previous speakers who have emphasized very eloquently what this will do for the critical areas, especially of education. I am, as my colleagues know, the chairman of the Senate Subcommittee on Education. I have just completed a number of trips around this country visiting the schools in the urban areas of this Nation, from Baltimore to New York to Detroit to Washington, DC, as well as Los Angeles and San Diego. I have also examined the statistics of where our schools are at this particular point in our history when it is so essential and so important that we improve our educational system to be competitive in the world that awaits us out there and the markets that are nec-

essary for this Nation to expand its economy.

The number one problem we see is the ability of our schools to be able to take advantage of the wonders that can come about through the information age. As I talk with them and travel with them, there is no question but that one of the most critical and important barriers they have to being able to participate in a meaningful way by the utilization of computer technology to provide the education through the software that would be made available and the opportunities that come through that is the inability to have affordable telephone communications. Without that, there is no hope that they will be able to make the kind of leap that we have asked them to make, for, as you know, we have passed Goals 2000, strongly indicating that we must by that time improve substantially the education of our young people.

I have been through my charts. I have gone through them many times, and I will many more times, to try to let everybody know the serious problems we are having.

First, I pointed out over and over again, when you compare our young people in the younger groups with competitor nations across this world, those nations which we would be competing with and gradually losing our competitive edge, we are last—last—in math and science among 14 of those nations.

Most probably, the most devastating statistic that we have facing us is the knowledge that 55 percent of our young people now that go through the school system come out functionally illiterate, because if you are not going to college, we do not worry about you. They are going to be the skilled work force of tomorrow in America. But if we do not furnish them the tools in schools and are not able to provide the kind of software that is out there and the ability to bring them up to speed on skills and on education, math, reading and all, we will not make it.

This is the best and biggest step forward we can make, by ensuring that there will be access to telephone lines.

Let me give you an example of how bad off it is. About 3 percent of our schools in this Nation right now have access to internet or outside communications for the utilization of the information age. When I go around to cities, I say, "I want to see your best and your worst." I have seen the best, and I have seen what they can do with the information age. I have seen so many young people sitting there with eyes lit up and looking at fantastic software and learning well above the capacity that we have ever had before.

Do you know how many of those schools there are in this Nation? Maybe 1 percent. Then I said, "I want to go to the worst that you have." I remember very vividly in the city of New York going down to a school on the lower east side. We went in there, and I think it was an old factory building.

There were six floors that you have to walk up and down. I said, "Let me see what you have to offer your young people." She showed me four computers. I said, "How old are these?" She said, "I think they were from the 1970's." I asked, "What kind of software do you have?" She said, "Let me show you." It was something I had seen back in the mid-1970's. But she said, "I am excited. We just got a grant for \$250 to upgrade our software."

Well, anybody that knows anything about computers and software knows what you are going to get for \$250 is not going to do much for anybody. I saw similar things in Los Angeles and San Diego. I saw the best and the worst.

This one provision in the bill will do as much as we can do for education as anything else—the dimensions of what it will cost in these schools to be able to bring the communications in without this kind of help is devastating. For instance, there is \$300 million in backlog of repairs and renovations needed in the city of Washington in order to upgrade structure to do the things that are needed to be done. It is \$100 billion nationwide. But if you can afford to get the phone lines in and give them a reasonable rate, then we have an opportunity to take advantage of that tremendous software that is out there. I have seen systems which are imaginative and wonderful. But it will not work unless there is access to it. The only way we can start making that access—and we need to worry about the ability to have power to run these and other things that go along with it. But if you do not have the phone access, you will not get there.

So I urge very strongly, if you believe as I do that education is so critical and important to the future of this Nation, the one best thing you can do right now is to vote against the McCain amendment and make sure the provisions are in here to assist our country, to be able to elevate our educational system on a fast track instead of the slow, slow snailpace process we are undergoing now.

I yield the floor.

Mr. BURNS addressed the Chair.

THE PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I rise in support of the McCain amendment. I guess when I first came to the Senate and I took a look at my State—long distances, sparsely populated—nobody has made more speeches on education, telemedicine, and all of those good things that can happen through wideband, broadband telecommunications.

Once we start down the road of preferential treatment, there is no end to it, and that technology will not be deployed at any price. That is the reason that we are doing this piece of legislation, to give some people incentive to deploy new technologies. If there is a way that we can serve education and telemedicine in rural areas, it will be done. It is being done in my State. For

the first time, we have school boards that are setting aside money now for equipment and software and, yes, charges in order to accommodate it, to give some people incentive to deploy it.

What this does as a result is create a whole new class of preferential telecommunications service entitlements for a diversity of groups. I have no disagreement with my colleague with regard to the contribution which advanced telecommunications can make to society, especially in rural America. My home State of Montana is one of those rural areas in the country. I have worked very hard to make sure that we have this new technology. But we have to find ways to be entrepreneurial and allow some competition into it to make it work. You know what? It works in an area where telephone companies and those companies that work outside of the regulatory environment—country telephones, REA's, people who have an interest in community that makes it available to their schools because they know what the investment is in that school and what it is worth to that community.

They can do that because they do not have to go to a PUC and explain why they are doing it for a school or why they are doing it for a rural hospital. The RBOC's are inside that regulatory, and what we are trying to do is relieve ourselves of them so they can do some special things. This new technology is not going to go out there, and we are not going to tell Government to force it out there. It is not going to make it friendlier or cheaper for preferential users.

When the heavy hand of Government reaches out to mandate that business prevent preferential rates to certain groups, business is not going to be the one who pays. You know who will pay for it? Consumers pay for it. That is what we have lost here a little bit—that the paying public of every telephone will pay for this preferential treatment. You can almost call that double taxation, because they are also paying school taxes and also probably to some of the hospitals for some of the work they are doing there. We just tend to forget. Make no mistake about it, businesses will pass along such costs to consumers through higher rates—the same consumers that will be looking for lower costs and more services once this legislation passes.

So philosophically, section 310 takes a mandated approach that moves exactly in the opposite direction from the entire legislation, and it is an approach that is really tough to support. It defies logic on preferential treatment. You just cannot simply ignore the future impact this will have on the consumers in Montana, and they will come at a higher cost—a higher cost—if this legislation passes with this section intact.

Whenever there are a lot of people who want to get into that universal service and they want to use it for themselves, keeping in mind that the

integrity of universal service is in question now because of preferential treatment, the Senator from Nebraska is 90 percent right. He understands what it did for Nebraska. I understand what it is doing in Montana. But it takes dollars in order to get that technology out there. If the Federal Government wants to step up to the plate and get some money out there, that is fine and dandy. I would support some of that for infrastructure inside the schools.

But we are going in exactly the wrong direction. It is a great thought. It has probably broad support because you always find more people who want something for nothing than you do people who want nothing for something. And that is just exactly the wrong direction. The marketplace is already moving in the right direction. It does not need this legislation in some areas to provide more service and more technology. But that progress could be stymied through mandates from this Government and—probably the Wall Street Journal was right this morning—placing more mandates. Every time we have a mandate, somebody pays. And it will be the consumers of this country who will pay for it, because this does not get out there for nothing.

I think it is a wrong approach. I say to my colleagues, if they are serious about building a national health and education infrastructure through telecommunications, this is the wrong direction to go, because with competition in the marketplace we will find somebody that will provide the services a little bit cheaper maybe than the next guy to do business in an area where there is a high volume of business as there is in education and health care provision in rural areas.

I ask my colleagues to support the McCain amendment.

I yield the floor.

Mr. KERREY. Before the Senator from Montana leaves, I appreciate the statement. I must say, Mr. President, I appreciate very much that Senator from Montana included a couple sections of language in this legislation on my behalf, section 304. It does deal with education. We added elementary and secondary schools for advanced telecommunications incentives. That is the connection. That is the fiber that would go to the school. It does not cover affordable rates and does not get some of the other things section 10 does, but last year when S. 1822 passed, the vote was 18-2. The Senator from Oregon, Senator PACKWOOD, and the Senator from Arizona, Senator MCCAIN, voted against it, but last year section 104 that the Senator from Montana supported did provide preferential rates.

Section 104 says the purpose of this provision—a new provision of the 1934 act to provide for public access actually much broader than what 310 does: disseminate noncommercial, educational, cultural, civic, and charitable, so the public has access to tele-

communications network—the purpose of this provision is to ensure that these entities may be able to obtain, at preferential rates, advance services and functionalities for all their communication needs.

The chairman of the committee voted for it last year—last year's ranking member, this year's chairman. All members of the committee, not just Republicans, but all members of the committee, voted for that last year with the exception of the Senator from Arizona and the Senator from Oregon.

I know there is a good explanation as to what happened between last year and this, but last year, preferential rates were part of the bill, and this year they are some kind of a slippery slope.

Mr. BURNS. To reply to the Senator from Nebraska, had it been part of this bill out of committee—that is the only place I voted for, was out of committee. I would probably have voted for it again to get it out of the committee to get it to come to the floor of the U.S. Senate in order to move this legislation along.

Mr. KERREY. The Senator has included S. 1822, some special comments that indicate which provisions of S. 1822 he did not particularly like, and I have read that and I do not find any objection to providing the preferential rates to the various institutions.

My focus is the K-through-12 institutions.

Mr. BURNS. I say to the Senator that was a year ago, and I would have voted to get it out of committee.

Once we look at who will pay for it and who will pick it up, somewhere in this mix we have lost the consumer. That is where it is going to come. It will come in the form of higher rates for everybody.

I say if we do not do that, then the deployment of the technology will be slower to happen. That is where I am coming from.

Mr. KERREY. Those Members concerned about higher rates, I point out that the managers' amendment, that I am quite sure will be accepted, has some changes that allows for universal funding to be used to provide these preferential rates, which avoids the necessity for any kind of concern for rate increase.

Again, I close briefly, the Senator from Maine was kind earlier to vitiate a tabling motion. I am prepared to end this in this debate.

I say in summary, for me, we are making progress out there right now in States precisely because we have an opportunity to negotiate with telephone companies because they are trying to move from a rate-based system of regulation to a price cap system. This legislation takes away that leverage by saying that all States will move to price cap regulation. The progress we see being made out there will stop.

This piece of legislation with section 310 intact, this particular section intact, will give every single Member

who votes to retain this section in there, I guarantee, an awful lot of pride. I promise, from personal experience and visiting schools that are using computer technology, those schools that use this provision—and they will, there will be very few schools that do not find themselves saying this is a way to leverage the purchase of computers, the purchase of software, to begin to use the technology for math scores, reading scores, and writing scores—all the things that have been frustrating, as citizens, will allow Members to get quite excited.

I hope that Members will not support this well-intentioned motion to strike the section and allow section 310 to remain in S. 652. I yield the floor.

Ms. SNOWE. Mr. President, just a few final points that I think are important to make in response to one of the previous speakers, Senator BURNS.

First of all, the language that has been incorporated in the legislation before the Senate that was offered by Senator ROCKEFELLER, Senator KERREY, Senator EXON, and myself in committee extended the already existing universal service provisions within the legislation. Universal service has been a fundamental part of our telecommunication policy, and rightly continues to be part of our telecommunication policy before this Senate.

We extended the provisions to include schools, libraries, and hospitals because we think it is in the public interest. It is in our national interest.

Furthermore, I think it is important to note that this ultimately will save money. When we talk about the deregulation of the telecommunication industry, which is what this legislation is all about, many providers will reap enormous benefits as a result of the goal of this legislation. We want to make sure that the rural areas also reap benefits, that they are not removed from affordable access to the technological growth and development of the information superhighway. It will save money through telemedicine. Making sure schools have access will ultimately increase the economic growth of this country. This language is a wise investment that will ultimately save money.

In talking to rural health care centers and hospitals, they point out that through telemedicine they could communicate with some of the specialists, without transporting the patient or going to another hospital in order to get those services. They can do it through telemedicine.

Access may be there to some citizens, in a limited fashion in some rural health care centers, as Senator BURNS mentions. It is not pervasive, and certainly not in my State.

Without this language in the bill, then rural areas will not reap the full benefits of the information age because it will be more economically feasible for carriers to provide those services in densely populated areas, in urban

areas—not in the rural areas of our country.

We have to ensure that there is a minimal threshold of affordable access to telecommunications services to our schools and our libraries and rural hospitals. We cannot make it more basic than that.

Finally, I would like to note that three of the Bell telephone companies support our provisions. We refined our language to conform to some of their concerns. NYNEX, Ameritech, and Bell Atlantic do not oppose these provisions.

I hope Members of this body will defeat the McCain amendment, which would strike the language that we have incorporated in the legislation before the Senate. I move to table the McCain amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SHELBY], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER (Mr. BENNETT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—58

Akaka	Exon	Lieberman
Baucus	Feingold	Mikulski
Bingaman	Feinstein	Moseley-Braun
Bond	Ford	Moynihan
Boxer	Glenn	Murray
Bradley	Graham	Nunn
Breaux	Harkin	Pell
Bryan	Hatfield	Pryor
Bumpers	Hollings	Reid
Byrd	Inouye	Robb
Campbell	Jeffords	Rockefeller
Chafee	Johnston	Sarbanes
Cochran	Kassebaum	Simon
Cohen	Kennedy	Simpson
Conrad	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Thomas
Dodd	Lautenberg	Wellstone
Domenici	Leahy	
Dorgan	Levin	

NAYS—36

Abraham	Gramm	Mack
Ashcroft	Grams	McCain
Bennett	Grassley	McConnell
Brown	Gregg	Nickles
Burns	Hatch	Packwood
Coats	Heflin	Pressler
Coverdell	Hutchison	Roth
Craig	Inhofe	Santorum
Dole	Kempthorne	Smith
Faircloth	Kyl	Thompson
Frist	Lott	Thurmond
Gorton	Lugar	Warner

NOT VOTING—6

Biden	Helms	Shelby
D'Amato	Murkowski	Stevens

So the motion to lay on the table the amendment (No. 1262) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I note that a quorum is not present.

The PRESIDING OFFICER. The Senator suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I hope Senators will bring up their amendments. We are ready for amendments. As far as I am concerned, I would like to go deep into the night, but maybe others disagree.

I have been trying all afternoon to get the voting speeded up. We are ready for the next amendment, as far as I am concerned. I do not know if anybody has an amendment ready. And I have been seeking time agreements. But we can really move much faster. We could theoretically finish this bill tonight if we really get going. So I would appreciate Members' support in moving this forward. We are ready for amendments. Senator HOLLINGS and I ready for any amendments.

Mr. DOLE. Mr. President, I have talked with both managers of the bill to see what we could do to accommodate our colleagues who have commitments for the next couple of hours. But then you have colleagues who have commitments tomorrow morning. I am not certain we can accommodate everybody. But the key is to get an amendment laid down that will take a couple of hours.

I think the Senator from South Carolina may be prepared to offer his amendment.

Mr. THURMOND. Not yet.

Mr. DOLE. He is in doubt.

There is the managers' amendment that still has not been adopted, and the amendment by this Senator, and then the amendment by Senator DASCHLE.

Mr. HOLLINGS. We are trying to work those out. We will work those out if we can get another amendment up and relieve our colleagues here.

Mr. DOLE. I have given a copy of my amendment to Senator KERREY because I know his concern with the bill. If we need to furnish any additional information, we will be happy to do so. But we do need to get an amendment here.

Do we have a list of amendments?

Mr. PRESSLER. If the leader will yield, we invite any amendments. But we are prepared to go to third reading very soon if Members do not bring up their amendments.

Mr. DOLE. As I understand, the Senator from Maine, Mr. COHEN, is prepared to offer an amendment which will take approximately 1½ hours. I am not sure how much the people in opposition might want.

Mr. PRESSLER. As I understand, Senator THURMOND will have an amendment and Senator DORGAN. Those are the only outstanding amendments that I know of.

Will someone correct me if that is not true?

We have the Cohen amendment and we have the Thurmond amendment and the Dorgan amendment coming up. That is all that I know of.

Mr. DOLE. The Senator from Maine is prepared to enter into a time agreement of 1 hour and 30 minutes equally divided, if that is all right with the Senator from South Carolina.

Mr. HOLLINGS. Yes.

Mr. DOLE. May we make that request?

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. Reserving the right to object, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I have no objection to the unanimous consent to set a time for this debate.

The PRESIDING OFFICER. Is there further objection?

Without objection, it is so ordered.

Mr. COHEN. Mr. President, reserving the right to object—

Mr. DOLE. No second-degree amendments in order.

The PRESIDING OFFICER. The Senator from Maine.

Mr. KERREY. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, as I understand it, we have agreed to an hour and a half equally divided, expecting a vote no later than—I would say what—a quarter of 8?

Mr. PRESSLER. That is correct.

Mr. COHEN. If it can occur sooner, can Senators be on notice that if time is yielded back we will vote prior to that time?

Mr. PRESSLER. For the convenience of Members, perhaps we can agree it will be an hour and a half. It does not make any difference to me. I am for voting as soon as possible.

Mr. COHEN. A 7:30 vote.

Mr. PRESSLER. And we will divide the time equally.

Mr. COHEN. I ask unanimous consent that there be no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1263

(Purpose: To provide for the competitive availability of addressable converter boxes)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for himself and Ms. SNOWE, proposes an amendment numbered 1263.

Mr. COHEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 12 and 13, insert the following:

(15) When devices for achieving access to telecommunications systems have been available directly to consumers on a competitive basis, consumers have enjoyed expanded choice, lower prices, and increased innovation.

(16) When recognizing the legitimate interest of multichannel video programming distributors to ensure the delivery of services to authorized recipients only, addressable converter boxes should be available to consumers on a competitive basis. The private sector has the expertise to develop and adopt standards that will ensure competition of these devices. When the private sector fails to develop and adopt such standards, the Federal government may play a role by taking transitional actions to ensure competition.

On page 82, between lines 4 and 5, insert the following:

SEC. 208. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

Part III of title VI (47 U.S.C. 521 et seq.) is amended by inserting after section 624A the following:

"SEC. 624B. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

"(a) AVAILABILITY.—The Commission shall, after notice and opportunity for public comment, adopt regulations to ensure the competitive availability of addressable converter boxes to subscribers of services of multichannel video programming distributors from manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service. Such regulations shall take into account—

"(1) the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of the programming or services; and

"(2) the need to ensure the further deployment of new technology relating to converter boxes.

"(b) TERMINATION OF REGULATIONS.—The regulations adopted pursuant to this section shall provide for the termination of such regulations when the Commission determines that there exists a competitive market for multichannel video programming services and addressable converter boxes among manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service."

Mr. COHEN. Mr. President, I rise this evening, along with Senator SNOWE, to offer an amendment that is a pro-consumer amendment. It is a pro-competition amendment that is focused on one narrow area of telecommuni-

cations that I truly believe needs more competition.

Basically, what we have is a situation in which cable companies will offer their cable service and offer the so-called set-top boxes, a cable box essentially, that you need to rent in order to carry the cable signal.

Obviously, cable companies are in the business to sell their signals and their programming, and they want to protect the integrity of that signal and that programming. I think that is not an unreasonable request. It is one that we ought to protect.

The difficulty, however, is that there is little, if any, competition in the set-top box market. As a matter of fact, what you have is an essential monopoly that has been granted to the cable companies.

We had a situation in Maine a short time ago where one company increased the monthly charge by almost \$3, just for the privilege of renting a box in order to carry signals that subscribers were already carrying. A furor erupted over that.

There is no real way to deal with this situation other than introducing competition. What I am seeking to do by this amendment is to allow the FCC the authority to call upon the private sector to develop a standard that would say, "Here is the technology whereby we can protect our signals but also allow for competition in the manufacture and distribution of these set-top boxes."

If we go back historically, we look at what happened to telephone companies. Decades ago, telephone companies would say, "You have to rent our telephone. If you don't rent our telephone, you don't get any telephone service."

Of course, times have changed. We now can walk into Circuit City, Radio Shack, Best Buy, or any of the supermalls, and we can find 20 or 30 different types of telephones. The signal has been protected. We can plug the telephone into the wall. We still have to pay the Bell companies, AT&T, MCI or whoever is carrying the signal. But the signal is protected.

As a result of competition, we have a wide variety of choices in other markets—VCR's, television sets, computers, video game players, and stereo systems. In these markets, we have competition. What this amendment seeks to do is introduce competition into the set-top box market.

Mr. President, I really believe that those who are opposed to this amendment—I have seen a letter circulated—argue that somehow this amendment represents more regulation. Those who argue against this amendment are for monopoly, not for more competition.

What we seek to do is to allow the FCC to call upon the private sector to develop the standards, and those would come—they should come—in a reasonably short period of time. We can do it today with analog technology. I am told that digital technology is moving along very rapidly. For example, one

could take a credit card, or something that looks like a credit card, and the cable company that is sending the signal would have their code on that card. You could not receive the programming without inserting that card into the set-top box.

That is something that is not too far away on the horizon. It may not even be necessary to have a set-top box the way technology is running today. But even if we are dealing with analog technology, competition can exist in the manufacture and distribution of the boxes, just as we have competition in the manufacture and distribution of telephones today.

So for those reasons, I am submitting the legislation. I am hoping that the Members of the Senate will agree that if we are trying to stimulate more competition, give consumers more choices at lower prices—which, after all, is the goal of this legislation—then it should be accepted.

I understand there are several States where these set-top boxes are manufactured, and the manufacturers like being able to go to the cable companies and say, "Here, buy our box." If I were they, I would enjoy that as well.

But if we are really talking about competition and giving consumers greater choices and lower prices, there is absolutely no reason why this amendment should not be accepted by the overwhelming majority of those people who are supporting deregulation, who are supporting this telecommunications revolution, and who want to see more competition.

With that in mind, Mr. President, there may be others on our side. I know Senator Snowe is here, and she is a chief cosponsor of the legislation. It is something that is long overdue. The problem we have today is there is no free market. If we were back 30 years ago in the telephone industry, we would still have the old black phone and still be paying rent to AT&T. If we had this information superhighway, we would say basically you cannot own a car, you have to rent one of our cars.

What this amendment says is we are going to give the consumer the opportunity to buy set-top boxes from any source they choose and, at the same time, allow for the protection of the signal by the cable company that is sending it forth. I believe this represents a reasonable approach.

By the way, there were questions raised about my earlier legislation (S. 664) on this issue. Was I really trying to bring in the computer industry? The answer is no. Was I trying to bring in the cellular phone industry? Again, the answer is no. To address the concerns of these industries, our current amendment focuses on the lack of a competitive market for cable boxes. We have excluded cellular telephone communications. We have excluded anything relating to computers. The legislation is designed solely for set-top boxes. We have no desire or intent to regulate

cellular phone or other telecommunications markets.

I urge those who are now advocating competition in order to give consumers lower prices and more choice to support the amendment.

I reserve the remainder of my time.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in strong support of the amendment offered by my distinguished colleague from Maine, Senator COHEN, and I join in cosponsorship of this legislation to ensure that set-top boxes are competitively available. I commend him for offering this legislation because I think in the context of the legislation before us today, this becomes a very important issue.

Currently, as Senator COHEN has noted, consumers have absolutely no choice with respect to set-top boxes. They are forced to rent them from cable companies, often as a requirement to receiving cable signals.

This issue was highlighted recently when a cable operator in Maine planned to scramble signals and require their customers to rent set-top boxes at a predetermined price.

This obviously did not go over very well because it did not offer a choice to the consumers. Rather, they were required to rent set-top boxes for an additional fee added to their cable costs in order to unscramble the cable signal.

Fortunately, the issue was resolved, but I think it underscores an important point, the need to ensure that consumers seeking to access cable services have options. This amendment would allow consumers to purchase the set-top box from a local retail store, or to lease or purchase a box from their cable provider. They would be able to choose boxes that will work with their own television set and continue receiving the cable programming channels to which they have subscribed.

When set-top boxes are available in a competitive market, consumers will benefit from lower prices, increased flexibility, and a higher quality product. Competition will ensure technological innovation in set-top boxes, as companies compete to provide a better product at lower prices.

I recognize that as companies try to provide consumers with new and changing technological features, there are bound to be growing pains. In the case of the State of Maine cable provider, the requirement to rent set-top boxes was intended to provide consumers with added flexibility through addressable programming—but instead it limited consumer choices because it required them to rent the set-top boxes and bear the additional cost, even if they wanted to receive the same services. I do not think that is a mandate, nor is it a price, that consumers should be forced to bear. I think certainly we should encourage competition, and I think this amendment does this.

This amendment requires the FCC to assure that set-top boxes used by consumers to access cable programming are available in a competitive market. This amendment also continues to recognize the legitimate interest of cable operators in ensuring the delivery of cable services only to those consumers which have paid for them.

Present technology, however, can ensure the integrity and safety of cable operators' signals without requiring delivery of set-top boxes only through the cable company.

In fact, the Electronic Industries Association has developed a draft standard for security cards, similar to credit cards, that could be inserted into set-top boxes by cable companies to protect their system, while allowing consumers to use a commercially-sold set-top box.

I think it is important to mention this issue because I know that cable companies were concerned about providing safeguards for their own signals. And this legislation provides for that, takes that into account. Under the amendment the FCC has the responsibility and obligation to consider the legitimate needs of owners and distributors of cable programming to ensure system and signal security, and to prevent theft of programming or services.

It is interesting to look back on telephones prior to the deregulatory environment, specifically, think back to 1978—to give an example of how much costs have dramatically changed in telephone services, back in 1978, it cost \$8.10 a month to rent a touch-tone telephone from AT&T—a noncompetitive rental that would cost about \$18.60 in 1994 dollars, plus the touch-tone and extension fees. As you know, the AT&T monopoly was broken up back in 1984. With that decision, the non-competitive telephone rental market was concluded.

In today's competitive market, a similar phone can be purchased for less than twenty dollars—about the same cost as a monthly rental from AT&T would have cost in today's dollars. In 1983, it cost \$3.03 to rent a standard black telephone—\$4.63 in 1994 dollars. Later that same year, when AT&T customers were allowed to buy the phones already in their homes, the very same phone could be purchased for \$19.95.

We have learned that competition did not threaten the security of the phone networks, and consumers benefited from technological innovations, lower prices, and expanded choice. So I think that a "yes" vote on Senator COHEN's amendment will bring competition to the market for set-top boxes, I think, benefiting consumers all across America. I think the case has been made absolutely clear. I urge a "yes" vote for consumer choice and improved competition.

I yield the floor, Mr. President.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I must rise in opposition to this amendment. But I do want to praise Senator COHEN, Senator SNOWE, and others who have worked on this, and who have done a good job of trying to find a solution.

I know that the intention of the amendment is to permit unbundling of cable boxes so that vendors other than cable companies can offer them.

While it is a good concept, the amendment is faulty.

Consumers should be able to obtain their set top boxes from vendors other than their cable provider. However, urging the FCC to step in to find a solution may not be the right way to proceed.

This amendment is drafted in such a way that I cannot imagine the FCC reacting in any other way but to try to issue standards governing set top boxes.

Standards should be set by industry. And, I understand that there has been difficulty in getting cooperation from industry in establishing standards. A uniform standard would make it easy for vendors and manufacturers who wish to get into the business. However, there is no uniform standard among the nation's cable operators.

Cable is going to have to change. Competition will force change. DBS has licensed several satellite dish providers, and the cost of DBS will continue to decline. The percentage of DBS will increase, and cable will have to compete to keep its customers.

There simply is no need for Congress to mandate further FCC studies or regulations on the subject of set-top boxes. The proposed amendment on set-top boxes is not sound for a number of reasons, including: The retail sale of cable descramblers could increase cable theft; increased cable theft will raise costs for cable systems and customers; widespread cable theft will surely discourage increased investment in cable programming and cable distribution facilities.

The proposed amendment is premised on the following four myths:

Myth 1: Cable boxes are no longer necessary to secure video programming.

Myth 2: The use of new digital technologies with replaceable "smart cards" will solve cable's security concerns.

Myth 3: Cable boxes are like telephones.

Myth 4: Retail availability of cable boxes will reduce prices to consumers.

Decoder boxes in homes are the only viable form of security for video service. While there are other ways to secure a program service, all of the known techniques have problems that make them useful only in limited circumstances. For example, negative traps cannot be used with multiple pay services without interfering with the signal quality of other programs delivered. Interdiction technology is costly and not totally reliable.

Since cable theft raises the cost of doing business for cable systems and, ultimately, cable consumers, product security is essential to the economic well-being of cable operators, cable consumers, and program networks. In addition, product security is vital for continued investment in cable programming and cable distribution systems.

Theft of cable service is a multi-billion dollar problem today. The retail sale of cable descramblers and would increase cable signal theft significantly. A person with a desire to modify cable boxes would be able to purchase any number of them at retail, modify them to illegally receive encrypted services, and then resell them to others at whatever cost the market would bear.

Signals protected by digital techniques are not immune to attack. The security of other television services that have depended on digital techniques and smart cards have been quickly compromised. Indeed, such security systems used by program providers in Europe were broken within months of their deployment.

Proponents of set-top box legislation argue that even if system security is breached, the smart card can be changed. The problem for both consumers and cable operators is the expense of such a scheme: Smart cards cost \$30-\$40 apiece. Sending out new cards to all customers every time signal security is breached would become a prohibitive recurring cost.

Telephone architecture and cable architecture are radically different. The telephone instrument itself does not grant consumers access to the services being sold by the telephone company. The telephone set is merely the instrument that consumers need to use the network. Access to telephone services is provided by a line that connects consumers to the telephone company's central office. In order to prevent consumers from using a service, such as dial tone, the telephone industry physically disconnects the consumer's wire at the central office. Consumers cannot steal the service.

Cable companies, however, must protect their services at the consumer's home, since the signals of all program services are present at all times in the cable system's distribution system.

Cable operators scramble or encrypt program signals to prevent their unauthorized reception. Access to the encrypted product which is present in every home is given only to consumers who have purchased it by providing a set-top box containing the appropriate descrambling circuitry.

Even telephone companies entering the video-delivery business have recognized that the most efficient way to deliver a video to consumers is to replicate cable television architecture, and they are deploying that approach in their new distribution networks.

Current law requires cable operators to provide decoders and descramblers

to consumers at cost. S. 652 does not change existing law. The retail cost of a descrambler is 10 times higher than the annual rental fee consumers now pay.

Cable companies deploy new set-top technology every 5 to 7 years. This obsolescence cost is far less for a consumer paying an annual rental fee based on actual cost than for consumers at retail.

Cable companies utilize different scrambling technologies from market to market, requiring cable boxes to be franchise specific. Consumers moving from one franchise area to another pay far less by renting their set-top equipment than by purchasing new boxes at retail.

For all the reasons I have mentioned, we do not need to place yet another requirement on this industry, particularly one which harms both paying customers and cable operators.

Therefore, I oppose the amendment.

Mr. COHEN. Mr. President, let me take this opportunity to add a few comments.

First, let me add my distinguished colleague, Senator THURMOND, as a cosponsor to the amendment.

Let me try to respond briefly to the comments that have been made. It seems to me these are the very same arguments that AT&T made 30 years ago: "If you do not allow us to control the phone, we will lose our signal. We will have people who will be getting access to our telephone service without paying for it."

The objective of this amendment is to make sure the FCC calls upon the private sector to develop the standard that will protect the cable signal. I do not want to see the cable companies lose the benefit of programming and the costs of doing business by having people engage in thievery. What we want to do is make sure that they are, in fact, protected. That is precisely the wording and the intent of the language of the amendment.

The Senator from South Dakota said competition will force change. But that is the problem. There is no competition in the set-top box market; there is a monopoly. We want to have competition. We want to force change. We want to have 10 different types of boxes or whatever other devices might be developed in the future, and not grant a monopoly to any one of the cable companies.

Yes, competition does force change. We have seen it in virtually every aspect of our lives, from the telephones, the VCR, to the computers, to everything. We go to Circuit City, Radio Shack, any of these major malls, and we see an absolute abundance of electronic devices by virtue of having a free market.

There is no free market today with set-top boxes. Take, for example, one cable company in Arlington, VA. Here is what they say in their "Policies and Procedures":

Please remember . . . that channel selector boxes with descrambling capability can only

be obtained from Cable TV Arlington. In fact, should you see advertisements for cable equipment that have descramblers in them (so-called "pirate boxes" or "black boxes") you should understand these devices are illegal to sell or to use, unless authorized by CTA [Cable TV Arlington]. Because of the need to protect our scrambled services, Cable TV Arlington will not authorize the use of any descrambler not provided by CTA. CTA does not recommend purchasing channel selector boxes from other sources.

Companies say "Rent our boxes." People cannot buy them.

If you have more competition, you obviously will have greater consumer choice. You will have more manufacturers. You will have diversity. You will have quality, as well.

Our amendment has a security provision, and for those who are concerned about whether the FCC is now going to interject itself and take over, we have also added a sunset provision. I do not want to see the FCC have long-range regulatory authority. But we are talking about breaking up the monopoly by saying the FCC shall go to the private sector, give them enough time to develop a standard, and if they do not develop a standard, propose a temporary standard. And it is temporary under this legislation as drafted.

Who supports this, Mr. President? Well, I have a letter here from the Information Technology Industry Council [ITI]. I will have it printed for the RECORD.

We also have the support of the Cellular Telecommunications Industry Association [CTIA]. They were originally concerned with the bundling provision in my earlier legislation. Because of this concern, I deleted the bundling provision in the amendment. So they are now in support and do not oppose the amendment.

Who is opposed to it? Obviously, the cable companies are opposed to it. They are the ones who are saying no; we like having this monopoly. We want to control the boxes. We want to rent them. We do not have to worry about competition. We do not have to worry about it at all.

The companies, obviously, who manufacture the boxes like going to a couple of cable companies and saying, "Here is our product." They do not want to be forced to engage in competition for the manufacture of these devices, be they boxes or some other type of device that the future will show us.

I think we have also addressed the issue of security. We have addressed the issue of limited FCC regulatory power by saying it is only temporary. The core of this amendment is more competition, lower prices, better quality, and more choice.

Mr. President, I make these comments on behalf of many of my colleagues who have served on the Judiciary Committee, as well. Perhaps they will be coming to the floor before debate is concluded.

The notion that somehow we have to be concerned that if we allow any competition, this will actually increase the

theft of cable signals, I think is precisely the same argument that was made by the telephone industry 30 years ago.

I think we have come a long way since then by virtue of competition. The consumer certainly has benefited. I think that this is precisely what needs to be done with this area of telecommunications that is now controlled by monopolies.

I reserve the balance of my time.

Mr. President, I ask unanimous consent to have printed in the RECORD the material previously mentioned.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INFORMATION TECHNOLOGY
INDUSTRY COUNCIL,
June 8, 1995.

Hon. WILLIAM S. COHEN,
U.S. Senate,
Washington, DC 20510.

DEAR BILL: ITI, the Information Technology Industry Council, supports your amendment to S. 652 that would enhance the competitive availability of equipment used to access multichannel video programming services. Competitive markets for these devices, like the one in which the computer industry has thrived, will benefit consumers and industry alike.

ITI represents the leading U.S. providers of information technology products and services. Our members had worldwide revenue of \$227 billion in 1994 and employ more than one million people in the United States. It is our member companies that are providing much of the hardware, software, and services that are making the "information superhighway" a reality.

We have been working with Kelly Metcalf of your staff over the last several weeks and believe that, as modified, the proposed amendment will improve consumer choice and stimulate competition and innovation in the market for the converter boxes and other devices that consumers will use to access video and other services provided by video programmers. This will ensure that consumers of multichannel video services—whether provided by cable systems, direct broadcast satellite, video dialtone networks, or other means—will be able to purchase equipment necessary to receive programming and services separately from the video services. This will allow independent manufacturers and retailers, who have no relationship to the service provider, to offer such equipment directly to consumers.

We appreciate your leadership and your willingness to work with us to address our concerns on earlier versions of the amendment.

Sincerely,

RHETT DAWSON,
President.

CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION,
Washington, DC, June 8, 1995.

Hon. WILLIAM S. COHEN,
U.S. Senator,
Washington, DC.

DEAR SENATOR COHEN: The wireless industry, through CTIA, has worked closely with you and your very capable professional staff regarding concerns of the commercial mobile service industry about restrictions and regulations being considered which would affect the industry's competitive and highly diverse marketing and distribution channels for mobile telecommunications equipment and services.

We are pleased that the amendment which you have offered does not affect the commercial mobile radio services equipment market, nor impose additional regulatory restrictions which would slow or deter the current ability of existing and new CMRS competitors, as well as retailers and manufacturers, to aggressively market mobile equipment and services to consumers from numerous outlets, including national, regional and local retailers, specialty stores and dealer stores.

The wireless industry appreciates the concerns that you have expressed about some aspects of the telecommunications equipment marketplace and we thank you for narrowing the scope of your amendment to address those legitimate concerns.

Very truly yours,

THOMAS E. WHEELER,
President/CEO.

Mr. KERREY. Mr. President, I would like 10 minutes to speak in favor of the Cohen amendment.

Mr. COHEN. I yield 10 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I have viewed the amendment and the company documents and listened to the Senator from Maine. I must say, he is entirely consistent with what this legislation, at its best, proves in a couple of ways. We will have the opportunity to discuss and debate this later.

It says that if consumers have a competitive choice—and by that, I mean that if I do not like what I got, I go someplace else.

The distinguished occupant of the chair has been in business and understands what choice is. If you have a product that your customer wants to buy, your customer buys it. If you do not, if the price or quality is wrong, he goes somewhere else. And in that kind of environment it tends to focus the mind. It tends to say to you, "I better figure it out and give that customer the right price."

The customer says to me, "I do not like black, I like blue, and if you do not give me blue, I will go down the road here where they are manufacturing it in blue." That is the kind of competitive choice that produces the kind of quality and the kind of choices that in fact we have seen in other sectors of our economy and that we are trying to do with this particular piece of legislation.

I understand the opposition to it. I understand certain sectors of the industry are worried about what is going to happen in a competitive environment. But let us not say to our citizens, as we are going through this debate as we are, that we are going to try to use competition to give you something that you currently do not have right now and then kind of pull back, which is what we would do if we do not accept this amendment, in my judgment.

I understand there are some concerns about what sort of impact this might have upon rural cable or smaller cable operators. I am prepared to surface that kind of concern. We just did that, in fact, with the Snowe-Rockefeller amendment in education.

If you have a particular problem where somebody is not able to survive, if you can make a good case where there ought to be some direct subsidy to enable them to survive, let us do it. But let us not take the entire sector, this piece of the electronics market, and shut down development of it, which in my judgment we are about to do unless we allow competitive choice to occur as we again are trying to produce a piece of legislation that pretends to be in favor of competition as a way to make the U.S. economy and this sector of our economy not only more productive but satisfy the needs of the consumers at the other end.

As I said in some earlier comments—and I will try not to run beyond my 10 minutes; you can hammer me down when I have gotten to the end point—on previous occasions, this piece of legislation we are considering, S. 652, is not a small bill. It is a big bill. It is going to have a major impact on every household in America.

From my experience with the divestiture in 1984, I remember for the first 2 or 3 years people were not happy. They were upset. They did not like all the choice. They were confused about it. We have to make sure, if there is a philosophy here that we believe will produce lower prices and higher quality, we have to be sure we will stick with it. But if we do not stick with it, what is going to happen is you are going to continue to have artificial separations that make it difficult for those entrepreneurs to come to our households and say, "I am prepared to sell you a packaged service. Here is my price and what I will give you. And if you do not like it, there are lots of other people who will come here and try to nail down your business."

That is the environment we are trying to create, and if we do not create it, consumers will say to us, our citizens will say to us as consumers, that we have gotten a good deal out of this thing. It has been good for us.

If we preserve any sort of monopoly out of concern, "I am not sure what is going to happen here, maybe I better hedge my bet a little bit," it seems to me we are going to find ourselves wondering why we supported this legislation.

I make it clear, even with this amendment adopted, I need to have some additional changes in this before this bill is going to get my support. But this particular amendment is entirely consistent with what I think this legislation needs to do before we enact it.

Mr. LEAHY. Mr. President, I join as a cosponsor of this amendment and commend my colleagues for their leadership. Just last year, Senator THURMOND and I proposed an amendment along the same lines to promote consumer availability of converter boxes. We were delighted when our colleagues from Maine took up the fight and previously noted our support when

they appeared before the Antitrust Subcommittee earlier this year.

This amendment seeks to encourage consumer options and competition. It uses regulatory authority only as a last resort when competition is not working, when consumer choice is not available, and where the private sector and the marketplace fail to develop standards that ensure competition. It is, of course, our hope that this regulatory authority never need be exercised.

Mr. HELMS. Mr. President, the pending amendment requires the Federal Government to jump in and set standards for technology and this will have a chilling effect on new technologies. Not only that it will compromise the security devices used in cable TV that enable parents to protect their children from indecent and violent programming on television. Allowing the FCC to set standards for technologies will have an adverse impact on new technologies being developed.

Mr. President, in order to protect their services, cable television operators have used increasingly sophisticated and cost-effective methods to secure that signals against theft. Current technology does this by including the security devices in a converter placed on or near the television set.

Security for these programs is essential for parents who wish to protect their children from the deluge of violent and explicitly sexual material so regrettably abundant on many cable channels. If the FCC, for whatever reason, sets a weak or easily compromised standard, it will be much easier for our children to gain access to trashy and violent programming.

Let me state for the record a few examples of the type programs to which children may gain access: HBO's program (called "Real Sex") in which a former porn state describes sexual acts and how men can dress like women; and the Playboy Channel, the X-rated movies on pay-per-view channels, and the violent R-rated movies.

Concerns over the lack of security are very real: the cable television industry is already experiencing a significant level of theft of service—approaching 15 percent in the largest systems. This cost cable operators and owners of intellectual property an estimated \$4.7 billion per year. Satellite television was victim to theft of service rates in the late 1980's which approached 65 percent of the market.

This amendment would turn over to Federal bureaucrats the responsibility for making the determination as to how much security is adequate. That determination will be binding on owners of intellectual property and network providers. This obviously is unacceptable.

The Federal Government should not be charged with setting the standards for technology. Standard setting for technology belongs in the hands of those in the private sector who have the expertise and the incentive to protect intellectual property.

A national and uniform security standard actually facilitates theft by giving criminals a single target; it also stifles the necessary innovation for security to stay ahead of high-technology hackers.

Mr. President, I am unalterably persuaded that property owners, and those acting for them, should have the right and responsibility to determine the level and method of security appropriate for their needs. That is clearly an economic business decision—not a matter for bureaucrats determination.

We must let new technologies develop to preserve security, experience the development of increased retail availability of equipment and avoid the consequences of the law of unintended results that usually accompanies regulation.

The Cohen amendment should be rejected.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I wonder if the Senator from Maine would allow us, within the unanimous consent agreement, to go to the managers' amendment that we have worked out and we wish to have agreed to. We are not going to change anything here. This will take about 5 minutes at the most.

Mr. COHEN. I have no objection.

Mr. PRESSLER. For the information of everybody, we will stick with the 7:30 vote. There is no change. There are more amendments to this and other speakers are welcome to come to the floor.

Mr. FORD. Mr. President, could the Senator refrain for just a moment?

It is all right, Mr. President.

Mr. COHEN. I assume it will take about 5 minutes after the time?

Mr. PRESSLER. Yes. It will take no more than 5 minutes.

Mr. HOLLINGS. Mr. President, this is a managers' amendment. We worked it out on both sides and we think this is a good use of time. We have been looking for the opportunity. We cleared it with those Senators. I yield.

Mr. PRESSLER. Mr. President, I ask unanimous consent to set aside the Cohen amendment for no more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION TO AMENDMENT NO. 1258

Mr. PRESSLER. Mr. President, I call for the regular order with respect to amendment No. 1258. This is a modification of the managers' amendment.

I send to the desk a modification of our amendment, the amendment of Senator HOLLINGS and I, and ask the amendment be modified accordingly.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 7 of the amendment, beginning with line 22, strike through line 4 on page 8 of the amendment and insert the following:

"(1) REGISTERED PUBLIC UTILITY HOLDING COMPANY.—A registered company may provide telecommunications services only

through a separate subsidiary company that is not a public utility company.

"(2) OTHER UTILITY COMPANIES.—Each State shall determine whether a holding company subject to its jurisdiction—

"(A) that is not a registered holding company, and

"(B) that provides telecommunications service,

is required to provide that service through a separate subsidiary company.

"(3) SAVINGS PROVISION.—Nothing in this subsection or the Telecommunications Act of 1995 prohibits a public utility company from engaging in any activity in which it is legally engaged on the date of enactment of the Telecommunications Act of 1995; provided it complies with the terms of any applicable authorizations.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'public utility company', 'associate company', 'holding company', 'subsidiary company', 'registered holding company', and 'State commission' have the same meaning as they have in section 2 of the Public Utility Holding Company Act of 1935."

On page 8 of the amendment, between lines 5 and 6, insert the following:

On page 36, line 13, strike "within 9 months" and insert "not later than one year".

On page 18 of the amendment, between lines 10 and 11, insert the following:

On page 74, line 1, strike "(2) SEC JURISDICTION LIMITED.—" and insert "(2) REMOVAL OF SEC JURISDICTION.—"

On page 18 of the amendment line 12, before the period insert the following: "and insert 'to grant any authorization'."

On page 18 of the amendment, between lines 17 and 18, insert the following:

On page 74, line 12, strike "contracts." and insert "contracts, and any authority over audits or access to books and records."

On page 19 of the amendment, between lines 3 and 4, insert the following:

(4) COMMISSION RULES.—The Commission shall consider and adopt, as necessary, rules to protect the customers of a public utility company that is a subsidiary company of a registered holding company against potential detriment from the telecommunications activities of any other subsidiary of such registered holding company.

On page 22 of the amendment, beginning with "The" on line 23, strike through line 24.

On page 13 of the amendment strike lines 14 through 17 and insert the following: "is amended by adding at the end the following:"

On page 13 of the amendment, line 25, insert closing quotation marks and a period at the end.

On page 14 of the amendment, strike lines 1 through 3.

On page 9 of the amendment, line 24, strike "120 days" and insert "180 days".

On page 7 of the amendment, line 9, before the period insert "so long as the costs are appropriately allocated".

Mr. PRESSLER. Mr. President, these modifications represent minor and technical changes in the public utility company provisions, preserve current law regarding the sunset provision of section 628 of the Communications Act of 1934, and extend the period for certain market opportunity determinations from 120 days to 180 days.

Mr. President, following the remarks of my colleague, I urge the adoption of the amendment.

Mr. HOLLINGS. Mr. President, it has been cleared on this side. I join the Senator from South Dakota.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1258), as modified, was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I ask unanimous consent the amendments included in the managers' amendment be treated as original text for purposes of further amendment during the consideration of the bill.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. This manager's amendment allows the FCC to modify those provisions of the modified final judgment (MFJ) that are not overridden or superseded by the bill. Does this provision of the Manager's amendment allow the FCC to change the provisions regarding the entry of the Bell operating companies into long distance or manufacturing?

Mr. PRESSLER. No. The amendment is intended, to allow the FCC to modify those provisions of the MFJ that this legislation would not modify or supersede.

Mr. KERREY. The manager's amendment changes the definition of "telecommunications service" by deleting a sentence concerning the transmission of information services and cable services. My question is whether the deletion of this sentence will affect the scope of many of the bill's substantive provisions.

For example, section 254(a) preempts State entry restrictions on the provision of "telecommunications services." Does the new definition mean that States would be allowed to restrict entry into the business of transporting information services?

Section 254(b) ensures that States can preserve universal service for "telecommunications services." Does the new definition mean that States could not preserve universal service for the transmission of any information services?

The bill provides detailed requirements that must be satisfied before the Bell companies may offer interLATA "telecommunications services." Does the deletion of that sentence mean that the Bell companies may provide interLATA transmission of information services without complying with the requirements of this legislation?

Mr. PRESSLER. The answer to each of those questions is "no".

The deletion of this sentence is intended to clarify that the carriers of broadcast and cable services are not intended to be classified as common carriers under the Communication Act to the extent they provide broadcast services or cable services.

AMENDMENT NO. 1263

Mr. PRESSLER. Mr. President, I now move to go back to the Cohen amendment. I say to Senators, a vote has

been set for 7:30. Any Senators wishing to speak on this amendment or on the bill, I invite them to the floor, if that is agreeable with the Senator from Maine.

I do have some closing, about 5 minutes of closing remarks on the Cohen amendment, but I will hold those over for a bit.

Mr. FORD addressed the Chair.

THE PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Who controls the time in opposition?

THE PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I yield as much time as the Senator from Kentucky wishes.

Mr. FORD. I do not want very much. I rise more in being inquisitive here rather than being in opposition to the amendment.

I understand what my friend from Nebraska says about competition. You come in the front door with a piece of equipment and you offer it for a certain price and if that is a little too high, there is always somebody else who will knock on the door and sell you something different.

Not many people go out in rural areas and drive 5 miles from customer to customer. They like to stay in town where you have houses and lots and there are 15 customers on one block rather than two customers in 15 miles.

My rural cable people are very concerned about this particular amendment, and I will tell you why. One, they are not sure what this will do to the small cable operator who would have maybe 250 or 500 customers, maybe 1,000, in a rural area. Will they be able to accommodate? Can they get the accommodation? Will they be able to carry things that will not be unscrambled through the boxes? Of course, our friend who promotes this amendment says everything is protected; there are temporary rules. Temporary rules that go into permanent rules? How soon will that be done? I have a lot of concern for the little people, particularly in rural areas.

There must be something special from all these technology groups. They must make the boxes and they want to manufacture them and sell them. I do not blame them.

I hate for me to be the vehicle to help them sell their products. I think they ought to be competitive, and if they have a better product, they can sell to the cable companies, if that is what is in it. But I am going to be concerned about my rural area and, somehow, I think if we could have a short study period here, perhaps we could eliminate their fears. Because, if the small rural cable operator cannot make it and then he has a financial problem and he is being pressured by the larger cable companies to buy him out, we find there will be less and less competition in the cable community than there is now out there. And the struggling small cable operator, I think, is

getting in trouble more and more all the time. They are not concerned; they are frightened.

They are not concerned; they are frightened. When you talk to them about having to borrow money to enlarge to try to keep up with the new technology and with the new rules, all of that, it becomes almost unbearable weight; to hire lawyers, to do all these things, and the expense is just almost unbearable weight.

I hope that Senators will look at this and have a study. I do not want a long study. I just want somebody to look at it and to convince the small cable operators that this is a good thing for them, that they will not be hurt, that they will be able to have—not many small communities have Radio Shacks. They may have a Wal-Mart about 15 or 20 miles away they can drive to, but they are not going to have a Radio Shack or Electric Avenue or all of these things right close by.

So, Mr. President, I am expressing some frustration as it relates to what we do to the small operator, the small entrepreneur. Let us put his life into it. And he is still struggling to be in competition with the major that is knocking on his door every day saying, "You cannot make it fellow. Let us take it over."

I would want the Senator from Maine, if he could—he is a smart individual and is a good word merchant—if there might be some way that we could have a short period of study that would maybe just apply to small cable operators and not major ones. I hear they are going to have a credit card. Just stick it in the box, punch it, and you get your program. Not many out in the rural areas are going to have a box you can put a credit card in, punch it, pull it out, and you will get certain programs. It will be very difficult for them to do.

I am here trying to protect the small operator in my rural constituency, and I hope I will not have to oppose this amendment. I hope we can have some sort of a study as it relates to really finding out whether all of these things are possible, all of these things are doable, this competition is going to be out there, and that everything is going to be great. If you can convince my small operators or me, I would be more than willing to be an advocate of this amendment. But I was always brought up believing when in doubt, do not. I am in doubt about what this does to my small cable operators.

Mr. President, I hope that we will give serious consideration to a study. I do not want a long one, but at least a period of time to be sure that my small cable operators will not be damaged in their operation and that their financial future will not be jeopardized because of this.

To go back to Abraham Lincoln, who said, "When progress is made somebody gets hurt." That is when Abraham Lincoln was defending the railroads against the barge and ferry operators

when trying to build a bridge across the Missouri River. The railroad won and it hurt the ferry operators and the barge operators. So Mr. Lincoln said, "When progress is made somebody gets hurt."

I am trying to prevent the hurt here. I have not been convinced that this will not hurt my small operators.

I yield the floor. I thank the Senator for giving the time.

Mr. PRESSLER. Mr. President, I think the goal of the Senator from Maine is very laudable, and I also believe we have to jog a little the cable industry to set a standard because they have been very slow to do so. I think the cable industry needs to get the message that we want better action from them in setting the standards. But when I get to boiling down to my concern about this amendment, it is that it says, "The commission shall, after notice and opportunity for public comment, adopt regulations to ensure the competitive availability of * * * convertible boxes, subscribers, and services of multi-channel video programs and distributors from manufacturers," et cetera. The part that worries me is that the "commission shall adopt regulations."

I am concerned that this might lock technology in. I fear it may be likely that the industry will not adopt a common standard in a timely fashion, thus involving potential standard setting by the FCC. The standards created by a Government entity may result in technology being locked in place which could result in stifling innovation. If the computer industry had been subject to a similar legislative mandate when interoperability was a real problem for early users of personal computers, I doubt our industry would be as competitive as it is today. After all, what is the top box but a small computer. If we have a standard developed by the FCC for these boxes, I think we will not have the future improvements and innovations that could occur if we simply leave the standard setting to the industry.

I cite the innovations that we have had in computers where there has not been a standard set by Government and innovation has gone forward very quickly. On the other hand, I would jawbone the cable industry very much to set a private standard so there could be more competitors.

Mr. President, this concludes my remarks on this particular amendment. I am sure there are other speakers. We have from now until 7:30, depending on Senators coming to the floor, but we are open for opening statements or statements on this or any other part of the bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, the Senator from North Carolina is getting ready to speak.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Thank you, Mr. President.

Mr. President, in the June 2, 1995 edition of the Washington Times, there appeared a front page article which was another reminder of the serious problem of theft of intellectual property. The article makes reference to the extraordinary efforts to which signal thieves have gone to steal programming carried by cable television systems, such as movies and special programs. They obtain cable television converters, normally through illegal means, modify them to compromise the security, and then sell them to either knowing or unwitting consumers so that they can steal the programming.

Indeed, in a recent article reported in the February 20, 1995 edition of Multi-Channel News that these signal thieves are increasingly resorting to armed robbery to obtain these boxes.

Mr. President, as both articles point out, this theft is a crime. It is viewed very seriously by Federal law enforcement officials because, left unchecked, such theft could undermine our national telecommunications networks. Let us not forget that, in the late 1980's, theft of satellite service almost destroyed that industry.

Mr. President, given the high value placed on this equipment by these thieves, I am very concerned about the amendment offered by the distinguished Senator from Maine, to make such equipment available at retail. Aside from the fact that the proposal would put the FCC right in the middle of setting standards and designing equipment for advanced digital technologies, this proposal fails to adequately address the problem of these signal thieves.

The current situation is that the limited numbers of warehouses where these cable television security boxes are kept are a major target for these signal thieves. Here you have a situation where the equipment is considered so valuable that signal thieves are risking armed robbery to obtain it. Can you imagine how much worse the situation would become if that equipment were widely available at retail? Under these circumstances, it would become virtually impossible to keep it out of the hands of signal thieves.

Let us not forget that these thieves are not stealing these security boxes so that they can display them on their fireplace mantles. They are using them to steal programming. The more easily

they can be obtained, particularly in quantities, the faster and cheaper it is for these signal thieves to mass produce modified boxes to steal programming.

Mr. President, I sympathize with the goal of the Cohen amendment. But I think that the approach taken is fatally flawed. It rests on the assumption that the Government can know that some security technique, like smart cards, can be used to facilitate retail sale. I do not know that to be true. Not even the experts at the FCC can know that to be true.

Yet the principle which underlies the amendment is that the Government can and will make the determination as to how much security is adequate. That determination will become binding on owners of intellectual property and network providers. This is not acceptable.

I believe that property owners and those acting for them should have the right to determine the level and method of security appropriate for their needs. That is an appropriate, economic business decision and not a matter for Government determination.

Moreover, it is entirely consistent with the deregulatory goals of this legislation that the chairman has consistently and clearly advocated during the debate on the underlying legislation and this amendment in particular.

This amendment is not proconsumer but it is preregulation. Therefore, I strongly urge that the pending amendment be defeated.

Mr. President, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Nebraska.

Mr. COHEN. Mr. President, how much time remains?

The PRESIDING OFFICER. Fifteen minutes. The other side has 13 minutes 54 seconds.

Mr. COHEN. This side has?

The PRESIDING OFFICER. Fifteen minutes.

Mr. COHEN. How much time does the Senator need?

Mr. KERREY. I was actually going to ask the managers—I do not know—if the opponents to this amendment were going to use all 13 minutes?

Mr. HOLLINGS. No. The opponents have used time. Go right ahead.

Mr. KERREY. Did the Senator want to respond?

Mr. COHEN. I am just curious; the Senator is going to speak for the amendment or against it?

Mr. KERREY. I am still speaking for the amendment.

Mr. COHEN. All right. The Senator wants me to give him some time then.

Mr. KERREY. I wish to speak more generally about the bill.

Mr. HOLLINGS. I yield sufficient time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I thank very much the Senator from South Carolina.

Mr. President, this amendment is important, but I say to the Senators who will be perhaps watching, or the staffs who will be over the next 30 minutes trying to figure out OK, what is going to happen next? Where are we in this piece of legislation? Remember, there are 9 sectors of the telecommunications industry, all directed to approximately 100 million American households. That is where they do business. They are selling to commercial customers as well, but they are focused on those households, and that is where we are going to hear whether this legislation is successful or not. That is where, a year from now, a year and a half, 2 years from now, you are going to hear people say, you know, this really did work. You were telling us it was going to work. It did work.

Nine sectors. I will run through them briefly again. Broadcasting is the big one, cable is one, telephone is one, Hollywood and music recording—that is music and the images—publishing is one, computers is one, consumer electronics, which is the subject of this particular amendment, wireless is one, and satellite is one.

All nine of them, Mr. President, represent hundreds of billions of dollars' worth of sales into the American household on a constant basis. They are making judgments about what to purchase and what to buy. What has happened is that the technology has changed so that it is possible now for people to buy in a package, and what we are trying to do is give them real competitive choice.

It is going to be traumatic. What we need to do is to say what is more important to us, the trauma faced by those consumers, those citizens in the households, or the trauma of businesses as they face competition for the first time in their business lives?

Mr. President, not only does this amendment need to be adopted, but we need to change the underlying bill so that the Department of Justice, which has been the prime mover in this—I know that many of my colleagues on the other side of the aisle think the Department of Justice should be left out, with just a consultant role, if necessary. I really urge you to think about that. That is going to be the next order of business. The DOJ, the Department of Justice, is the one that started this in motion in 1948, in a consent decree, with the Department of Justice action against AT&T. That is what produced the competitive environment in long distance.

If you hook the Department of Justice of that Republican administration to another Republican administration to a Democrat administration, they have consistently been the best advocates in this Nation's Capital for competition. They are the ones that said: Look, I know you want to own all the market. I understand what you are trying to do. But you cannot. We have to keep this competitive because not only

will consumers benefit, but the economy will benefit as well.

I understand people said oh, no, that is not going to work. I have talked to the companies about this. I know why they do not like it.

The Department of Justice needs to be more than just a consultant in this thing. Otherwise, I tell you, Mr. President, my colleagues, I think you are going to regret this vote. You are not going to get the kind of vigorous competition that is needed in all of these sectors, in a package fashion, that is going to have our consumers say I was paying \$120 a month for all of my information, all these things taken together, all nine of them, and now I am paying \$80. This is terrific. This is working.

Disregard, if possible, the companies that are coming in and saying, gee, I do not want to do it that way because this is going to be a better way.

Think about those consumers in the households. Think about those individual families in the households. This amendment is going to look a lot better, the DOJ role is going to look a lot better under those circumstances.

I suggest, Mr. President, that another particular portion of this legislation that says a local telephone company can buy a local cable company, we cannot allow that in the local area, because then you are only going to get one line to 75 percent of the homes.

So I hope as we go through this thing colleagues will see that there is an intent with this legislation to produce a competitive environment about which, if we do it, the citizens we represent will say this did work; we are glad you provided that for us.

It is not completely unregulated. It is not completely unfettered competition. The structure here that we are trying to produce allows competition to satisfy not just a public interest that we understand is still present but also a consumer interest.

So once again I understand very much the concern raised by the distinguished Senator from Kentucky and perhaps there is some accommodation that can be made in the area of a study. I do not know. I certainly would not necessarily object to that, if the distinguished Senator from Maine could work it out. But I think we have to really make sure we understand that if competition is something we are going to use to reduce prices and increase quality, then we have to turn back some folks who are going to be coming to us, and I really think the toughest one of all is going to be the Department of Justice role. And I understand people are digging in on it, but I hope you do not dig in too much because you are the one who is going to have to live by this vote. You are the one who is going to have to explain whether this works or not.

I would not be on the floor all day today and last night not feeling very strongly as I do. Unless we get this thing right, we are going to live to regret it.

Mr. FORD. Will the Senator yield for a question?

Mr. KERREY. I will be pleased to yield.

Mr. FORD. After this amendment passes, how long does the Senator think it would take the companies to go to China and have these boxes made for practically nothing and come back over here and flood the area with them?

Mr. KERREY. There is no question the distinguished Senator from Kentucky is raising a very legitimate concern. When we lift the restrictions on manufacturing in general, which we are doing in here—and we heard earlier the distinguished Senator from Arizona coming down and saying that we finally got out of this domestic content stuff in there. That was there out of a concern we try to keep some of this manufacturing business in the United States. There is no question that is a legitimate concern.

Mr. FORD. Not only, would I say to my friend, is my concern for the small cable operator. I would encourage those who are promoting this amendment to give us an opportunity to study it. All of a sudden we get this amendment out on the floor and people have an opportunity maybe to study it for a short period of time. Competition is great, but competition putting out a lot of cable operators, small entrepreneurs struggling for a long time, does not set very well with me, and I am sure it does not set very well with the Senator from Nebraska.

Mr. KERREY. I am not the sponsor of the amendment. The distinguished Senator from Maine is. However, he would decide in that regard. I certainly would have no objection to what the Senator proposes.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I ask unanimous consent that Senator HUTCHISON and Senator LEAHY be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I will respond briefly to the comments of the Senator from Kentucky.

He mentioned that he is from a rural State. So am I. I do not know what the population of his State is, but we have little over 1 million people in the State of Maine. I used to be the mayor of the third largest city in Maine—38,000 people. So we have a rural population in my State as well.

I doubt very much whether there are many States—no matter how rural—that do not have a Radio Shack or a Wal-Mart or a Sam's or some other major type of outlet in their States. That really is not the issue. If you live in a rural area and you do not have a Wal-Mart, Sam's, Circuit City, or Radio Shack, what you do is just keep renting your box from your cable company.

That is all you have to do. You have a choice. You do not have to buy anything. You can continue to pay the rent for the box. Your small cable company rents the box to you, and you continue to pay the rent. If you get unhappy with it, you may decide you want to make the trip 12 miles to buy another converter box.

What I am saying is consumers cannot take that signal of the cable company and steal that signal by virtue of having access to the box. That was the purpose of having the private sector develop a standard whereby cable operators protect their signal.

What the FCC does is turn to the private sector, just as they did with the phone jack. The standard for the telephone jack was developed by the private industry.

That is what we are talking about here. If you are talking about theft, what do we tell Hewlett-Packard, Compaq, or IBM or any of the other major computer developers and manufacturers today? You know something, we have a big problem—hacking. We have hackers all over the country, all over the world. They can get into the computers at the Pentagon.

The Senator from South Carolina knows about this. All the people who are here, the Senator from Kentucky and all of you, have had access to information. They can gain access to the computers in the Pentagon.

What do we do? Shut down the computers? We said, "No, let's do better. We have to develop better standards for protecting the signals, protecting the technology." That is what is going on in the private sector today. We all have been briefed on what is going on in the private sector, the kind of standards designed to prevent hackers from getting access.

What is the largest growing market today? The direct satellite television. Do you think people are putting millions or billions of dollars into developing direct satellite television if they are worried that they cannot protect their signals?

That is what is going on. The industry will develop the equipment to protect the signals. Why are you going to give cable companies, not mom-and-pop cable companies, major cable companies the opportunity to run a monopoly? For the small rural State that may have only one cable company and no marts where consumers can go to purchase a set-top box, there will be no problem. Consumers will just keep renting that same box.

Mr. President, the Senator from South Dakota said that what we really have to do is jawbone the industry. The difficulty is the jawbone is not connected to the hip bone. They are not walking, they are not running, they are not doing anything.

What they are doing is holding on to a monopoly, and they are saying, "Take our box or don't get any signal, period." What we are saying is here is an opportunity to put competition into

the business so that people have a choice with lower prices and the cable company still protects its signal.

Mr. President, that is why the Consumer Federation of America and the Consumers Union endorse this particular amendment. It is why ITI supports the amendment. They also support it because they see this as an opportunity to get more competition in the field that we are supposed to be trying to get competition in—telecommunications.

I want to say to the Senator from Kentucky, I represent a small State, too. I have small cable companies. They are not particularly concerned they are going to be put out of business. Their signal is protected—maybe not well enough from somebody stealing the boxes. But the private sector will develop a standard to protect the signals.

The FCC can adopt the standard, as they have with the telephone jack, to allow any individual to go into any store—rural, urban, big mall, little shop—to buy a telephone, to buy a VCR, to buy a computer, to buy an organizer. A standard ought to apply to the set-top box as well. That is what this amendment is designed to do, to allow the private sector to get into the business of lowering the prices for consumers so they do not have the consumer at the mercy of the cable operator saying, "Take this box or else you get no signal. Rent this box or rent this telephone; you can't buy your own."

What we are saying is let us give the consumer a choice to buy a set-top box or rent one, whether you live in an urban or rural State. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, we have approximately 15 minutes until the next rollcall vote. I believe all speakers have concluded. I urge Senators who wish to make statements on the bill to come to the floor.

Mr. FORD. Mr. President, will the distinguished Senator from Maine answer a question for me, just one?

Mr. COHEN. If I can.

The PRESIDING OFFICER. Who yields time to the Senator from Kentucky?

Mr. PRESSLER. I yield time.

The PRESIDING OFFICER. The Senator from South Dakota yields time to the Senator from Kentucky.

Mr. FORD. Am I correct in that if the television set is cable ready, you do not need the box?

Mr. COHEN. That is correct.

Mr. FORD. So most television sets are becoming cable ready. They may not go up to 98—they may be 60-some-odd, most of them. So, technically, the box is not used on a cable-ready television.

Mr. COHEN. Right. Many, many homes, as you know, in the rural areas do not necessarily have the cable-ready type of television.

Mr. FORD. As I recall, and the Senator might agree with me, we would allow only one charge under the cable bill, no matter how many TV sets you might have in your home. They used to charge you for each one, now they charge for one.

Mr. COHEN. I correct myself. You may still need a set-top box, even though you have a cable-ready television set. That is what happened in southern Maine recently where a major company as a matter of fact, said, "This box you have to rent. Even though you are currently getting our signal, this is something we are going to now prepare for the future in terms of interactive television and you must now rent this box, in order to get the signal you were getting previously through your television sets."

Mr. FORD. I wanted to clear up one thing with my friend from Maine. Time Warner withdrew that, and they no longer do that.

Mr. COHEN. They withdrew it only after great protest was raised, precisely the problem when you have a company who can come in and say, "The signal you are getting now you have to pay more for it. Now it is roughly \$3 more and you are going to get just precisely the same thing you were getting before."

Mr. FORD. That is no longer being done.

Mr. COHEN. It does not prevent any other company in any other State from doing precisely the same thing.

Mr. FORD. I understand that, Mr. President, and I say to my friend, with cable ready, I do not believe you need the box. I think he agrees with me that basically that is true.

Mr. COHEN. No, because the—

Mr. FORD. I am not sure the cable company can still scramble on a cable-ready. You cannot get HBO—it is scrambled—unless you pay for it and then they release that. The box is almost a moot question in some respects. But I still have the same concern I had earlier about the small cable operator.

You have a rural State; I have a rural State. I remember the satellite dishes we put up, about \$3,000 apiece, and then you had to go to the cable company and get it turned on. There are a lot of things going on. But progress has been made.

Now FCC is not going to help build anything. They are not going to mandate anything, I understand, but you are going to set standards. I agree with the chairman, when you set standards, you limit the technology in a great many places, because as long as they meet the standards, they do not have to be competitive.

We have 8 or 9 minutes we can have some debate with. But it is awfully hard for me to agree that the box is a problem, except in cases where the television set is not cable-ready. I believe what the Senator from North Carolina said a few minutes ago—it is setting up for a lot of theft as it relates to intellectual property.

I hope this amendment will be defeated. But better than that, I wish the Senator from Maine would let us study it and convince us and be sure when he comes forward with this, that we all understand it. It could be a 3-month study, 6-month study, a 1-year study, or whatever it might be, so that we can come back and that study will be available, and then we can go forward with legislation and we can probably give better instructions to the FCC.

I thank the Senator for his courtesy.

Mr. COHEN. I thank the Senator for raising the issue. It highlights the nature of the problem whereby one company can suddenly come in and decide it wants to give you a different type of service and you must rent this box in order to get what you are already paying for. Sure, there was an outcry, an outrage expressed by consumers. They were told to relax, this is for the future. We are preparing you for interactive television. They got interactive alright with the consuming public, and they were forced to take it down.

The FCC is not in the business to try and stifle developments. As a matter of fact, can we argue today that as a result of the standards developed by the private sector and incorporated by the FCC, that technology has been stifled in the telephone industry? I do not think so.

We are seeing tremendous progress being made. I point out to the Senator from Kentucky that while some people might get hurt, a whole lot of people get helped when you make progress. We are trying to help millions of people in this country acquire the technology cheaper and with greater choice, and hopefully with greater quality. That is the purpose of the amendment. So the telephone industry is a good example of what can take place with the set-top box market.

I might point out that on page three of the amendment, it indicates, "Such regulations shall take into account the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of the programming or services; and, secondly, the need to ensure the further deployment of new technology relating to converter boxes."

I say to those who are arguing that this is being raised to stifle technology, it is just the opposite. Those against this amendment want to stifle competition. Those who vote for this amendment will vote for the Consumer Federation of America and the Consumers Union.

When the vote comes at 7:30, those people here that are concerned about getting more choice to the public, getting better quality, and getting more competition will vote to support the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, just before our time expires, I want to indicate that this amendment certainly is not a partisan issue, as you can see from the debate that has taken place, with the Senator from Nebraska joining the Senator from Maine, and others who have expressed support for this amendment.

I also point out that in the other body, Congressman BLILEY, the chairman of the House Commerce Committee, and also Congressman MARKEY, the ranking member on the House Telecommunications Subcommittee, have endorsed the legislation and, in fact, have reported it out of the committee. So the legislation is bipartisan in the House. I hope the bipartisan support for this amendment will be reflected in the vote here this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, an up or down vote has been agreed to.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1263 offered by the Senator from Maine [Mr. COHEN].

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. MCCAIN], the Senator from Alabama [Mr. SHELBY], and the Senator from Arkansas [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 64, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—30

Ashcroft	Chafee	Graham
Boxer	Cohen	Hatfield
Bradley	Feingold	Hutchison
Bumpers	Feinstein	Jeffords
Byrd	Glenn	Kassebaum

Kerrey	Moseley-Braun	Simpson
Lautenberg	Pell	Snowe
Leahy	Rockefeller	Thompson
Levin	Roth	Thurmond
Lieberman	Simon	Wellstone

NAYS—64

Abraham	Dorgan	Lott
Akaka	Exon	Lugar
Baucus	Faircloth	McConnell
Bennett	Ford	Mikulski
Bingaman	Frist	Moynihan
Bond	Gorton	Murkowski
Breaux	Grams	Murray
Brown	Grassley	Nickles
Bryan	Gregg	Nunn
Burns	Harkin	Packwood
Campbell	Hatch	Pressler
Coats	Heflin	Pryor
Cochran	Helms	Reid
Conrad	Hollings	Robb
Coverdell	Inhofe	Santorum
Craig	Inouye	Sarbanes
D'Amato	Johnston	Smith
Daschle	Kempthorne	Specter
DeWine	Kennedy	Thomas
Dodd	Kerry	Warner
Dole	Kohl	
Domenici	Kyl	

ANSWERED "PRESENT"—1

Mack

NOT VOTING—5

Biden	McCain	Stevens
Gramm	Shelby	

So the amendment (No. 1263) was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I hope the Senator from North Dakota will bring his amendment forth.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is the pending business is the Dole amendment. I ask unanimous consent that the Dole amendment be set aside so that I might offer an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1264

(Purpose: To require Department of Justice approval for Regional Bell Operating Company entry into long distance services)

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. SIMON, Mr. KERREY, Mr. REID, and Mr. LEAHY, proposes an amendment numbered 1264.

The amendment is as follows:

On page 82, line 23, beginning with the word "after", delete all that follows through the words "services" on line 2, page 83 and insert therein the following: "to the extent approved by the Commission and the Attorney General".

On page 88, line 17, after the word "Commission", add the words "and Attorney General".

On page 89, beginning with the word "before" on line 9, strike all that follows through line 15.

On page 90, line 10, replace "(3)" with "(C)"; after the word "Commission" on line 17, add the words "or Attorney General"; and after the word "Commission" on line 19, add the words "and Attorney General".

On page 90, after line 13, add the following paragraphs:

"(4) DETERMINATION BY ATTORNEY GENERAL.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application made under paragraph (1), the Attorney General shall issue a written determination with respect to the authorization for which a Bell operating company or its subsidiary or affiliate has applied. In making such determination, the Attorney General shall review the whole record.

"(B) APPROVAL.—The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its subsidiaries or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications service market such company or its subsidiary or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization."

"(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register."

On page 91, line 1, after the word "Commission", add the words "or the Attorney General".

AMENDMENT NO. 1265 TO AMENDMENT NO. 1264

(Purpose: To provide for the review by the Attorney General of the United States of the entry of the Bell operating companies into interexchange telecommunications and manufacturing markets)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. D'AMATO and Mr. DEWINE, proposes an amendment numbered 1265 to amendment No. 1264.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 82, line 23, strike "after" and all that follows through "services," on page 83, line 2, and insert in lieu thereof "to the extent approved by the Commission and the Attorney General of the United States,".

On page 88, line 17, insert "and the Attorney General" after "Commission".

On page 89, line 3, insert "and Attorney General" after "Commission".

On page 89, line 6, strike "shall" and insert "and the Attorney General shall each".

On page 89, line 9, strike "Before" and all that follows through page 89, line 15.

On page 89, line 16, insert "BY COMMISSION" after "APPROVAL".

On page 90, between lines 9 and 10, insert the following:

"(C) APPROVAL BY ATTORNEY GENERAL.—The Attorney General may only approve the authorization requested in an application submitted under paragraph (1) if the Attorney General finds that the effect of such authorization will not substantially lessen

competition, or tend to create a monopoly in any line of commerce in any section of the country. The Attorney General may approve all or part of the request. If the Attorney General does not approve an application under this subparagraph, the Attorney General shall state the basis for the denial of the application."

On page 90, line 12, strike "shall" and insert in lieu thereof "and the Attorney General shall each".

On page 90, line 17, insert "or the Attorney General" after "Commission".

On page 90, line 19, insert "and the Attorney General" after "Commission".

On page 91, line 1, insert "or the Attorney General" before "for judicial review".

On page 99, line 15, strike out "Commission authorizes" and insert in lieu thereof "Commission and the Attorney General authorize".

On page 99, line 18, insert "and the Attorney General" after "Commission".

On page 90, line 6, after "necessity", insert: "In making its determination whether the requested authorization is consistent with the public interest, convenience, and necessity, the Commission shall not consider the effect of such authorization on competition in any market for which authorization is sought."

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. DOLE. Is there a time agreement on this amendment?

Mr. HOLLINGS. Not yet, no.

Mr. DOLE. Would there be a possibility of having a time agreement?

Mr. DORGAN. I would not agree to a time agreement at this point. This is one of these major issues on this bill. I think that we have an amendment in the second degree. I think this will have to be explored at some length.

Mr. HOLLINGS. Could we agree to debate it tonight and vote first thing tomorrow?

Mr. DORGAN. I would not agree to that time agreement.

Mr. PRESSLER. If my colleague will yield, if we could debate all this evening, and have a vote at 9 in the morning, would that be agreeable?

Mr. DORGAN. My point is, I do not want to agree to a time agreement on these issues. We have two amendments on the Department of Justice's role here. This is I think one of the central issues in this bill. If you are suggesting that we ought to now, in the next few hours, debate when a number of Members will probably not be here and have a vote in the morning, I do not think that there is an urgency on this bill to move to a vote on one of the central issues in this bill by 9 o'clock in the morning. So I would not agree to a time agreement at this point.

Mr. PRESSLER. If my colleague will yield, we could debate until midnight or beyond, and Members who wish to speak could speak tonight and vote at 9 in the morning. Everybody could speak who wants to speak this evening.

Mr. DORGAN. I would respond that I do not at this point propose to accept a time agreement. I think what we ought to do is have the debate and see

which of our colleagues wish to weigh in on these issues. This is, as I said, one of the central issues in this bill. I think at least from my observations there are many Members on both sides who will want to be heard, and many of them want to be heard at some length on these two amendments. I think it is premature to be seeking a time agreement.

Mr. DOLE. Will the Senator yield? But we are prepared to debate it at some length tonight; is that correct?

Mr. DORGAN. Oh, yes.

Mr. DOLE. There will be no more votes tonight. We will try to see what happens in the next couple of hours. It is a very important amendment, and it is central to the debate. I do not have any quarrel with the amendment of the Senator from North Dakota nor the Senator from South Carolina. I am not trying to crowd anyone. I want my other colleagues to know what they can expect.

So I think it is safe to say, if it is all right with the Democratic leader, there will be no more votes tonight. We will take another look at it at 10 o'clock, 11, whatever, whoever is still here.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, as Members know, I offered the amendment and the amendment has been second-degreed by an amendment offered by Senator THURMOND, and we will, I expect, debate the merits of both amendments at this point.

As I indicated to the majority leader, this is, I think, one of the central issues in the telecommunications bill that the Senate must consider.

When I spoke this afternoon on this legislation, I talked about the breath-taking changes in our country especially in the area of telecommunications, technology, the building of the information superhighway. I also talked about what telecommunications technology means to the people in this country and our future.

I must say that the people in the private sector in our country have been investing money, and taking risks. I commend them for that. The risk-taking entrepreneurs, I think have brought enormous fruits of accomplishment to our country. Their advances in technology will improve life in our country in many, many ways. It creates jobs; it provides entertainment. It does many, many things that are important for our country.

The question of how we develop the information superhighway, who benefits from it and what are the rules in a competitive economy we are now confronting.

The industry, dealing with 1930's laws that were originally established in telecommunications, has been out developing its own course largely because there have not been guidelines established by Congress. The Senator from South Dakota and the Senator from South Carolina now bring to the floor a

piece of legislation that says let us update the 1930's laws and let us talk about the guidelines, what are the conditions of competition. And this legislation, I think, has a lot to commend it to the Members of the Senate.

So I have supported the legislation out of the Commerce Committee but have indicated that I feel there are some problems with the legislation, one of which is the role of the Justice Department in establishing the criteria for when competition exists with respect to local service carriers and when those local service carriers, namely, the regional Bells, can go out and engage in long distance competition.

The Commerce Committee passed a telecommunications bill last year, and a bill was passed by the entire House of Representatives, that included provisions with respect to the tests that should be met before the Bell systems should go out and begin to compete in long distance.

That test was very simple. It's called the VIII(c) test. VIII(c) provides a test for the Department of Justice to perform its assigned and accustomed role to determine when there is competition in local service and when then the Bell systems will be allowed to go out and compete in long distance service.

VIII(c) existed last year in the telecommunications bill that was passed in the House and the Senate Commerce Committee. All of a sudden this year that test vanishes. That's why I propose in my amendment to establish the VII(c) test.

Some say, gee, that is a radical requirement, an VIII(c) test for the Justice Department. So radical, it is exactly what the House passed last year, so radical it is exactly what the Senate Commerce Committee passed last year. It is not radical at all. It is exactly what the Justice Department role should be in evaluating when sufficient competition exists in the local exchanges so that the Bell systems will be free to engage in long distance services.

I wish to remind my colleagues of the experience we have had with airline deregulation. When we deregulated the airlines we said that the role of determining when sufficient competition existed and whether mergers should be allowed will be assumed by the Department of Transportation. The Department of Justice shall have a consultative role.

What has happened as a result of that? Well, you have all seen what has happened. We have seen the large airlines in this country grow larger through acquisition and merger. They have bought up the regional carriers. So now we have fewer airlines and bigger airlines; in other words, less competition.

It is interesting to me that when we have seen some of these mergers proposed, the Department of Transportation consults with the Department of Justice, and the Department of Justice says, well, we do not think this merger

would be in the country's interest from a competitive standpoint; we think it would diminish competition. And then the Department of Transportation says, we do not care about that; we are going to allow the merger to occur anyway.

That is a sample of what happens when you take the Justice Department out of the decision making in these areas.

Now, we have, over a long period of time in this country, established the Justice Department as the referee in the issue of where and when sufficient competition exists with respect to questions like this. But this bill comes to the floor and says well, now, let us see if we can do something different. Let us take the Justice Department; let us clip their wings. Let us defang the Justice Department with respect to its ability to make judgments about what is in the public interest and what is not in the public interest in this particular area.

I listened intently about the subject of competition. Members of the Senate have come to the floor of the Senate and talked about the market system and competition. I think the market system is a wonderful thing, and it has brought this country enormous benefits. It is the way this country has become as strong as it is—market system, free and open competition.

But if you believe in the market system and competition, then you have to, in my judgment, stand up for these kinds of issues. You have to stand up for the role of the Justice Department to investigate and evaluate what represents antitrust, what kinds of conditions must we insist upon to ensure competition, because if you are not standing up for those kinds of things that ensure competition, in my judgment you are no friend of the marketplace. You are no friend of free markets. That is the reason I offer this amendment to the Senate tonight.

This amendment utilizes the standard that is found in section VIII(c) of the modified final judgment with which most of us are familiar. This amendment requires the Bell systems to show there is no substantial possibility that it could use its monopoly power to impede competition in the long distance market.

The standard I propose is well understood. It has been applied by the Department of Justice and the courts since 1982. The standard protects competition in long distance services by limiting the entry to cases where local monopolies have ceased to exist or the potential for abuse of power in local markets is absent.

Now, under the bill as reported, as I have indicated, the Bell systems need only apply to the FCC to enter long distance services, and the FCC would use what is called a public interest standard and determine that the Bell systems have completed the competitive checklist. They might ask the Justice Department in a consultative role

but it will not matter, because the FCC will make the judgment.

Well, the problem with that is this. The FCC is a regulatory agency and the Department of Justice is the agency that has had over time and does have the capability of evaluating the issue of competition.

The Department of Justice is the agency with the expertise in protecting and promoting competition in telecommunications markets. It was the Department of Justice that investigated and sued to break up the Bell system monopoly, which resulted in making the long distance and manufacturing markets competitive.

All of us understand what has resulted from that. Those areas of the telecommunications system that are competitive, namely, now long distance and manufacturing—and let me say, especially long distance—those areas have produced enormous rewards for the consumers: lower prices and substantial changes in opportunity for choice. You can go to any one of hundreds of long distance carriers these days and find a wide variety of choices at competitive prices, prices much, much lower than consumers paid when the old monopoly system existed.

I have indicated that we have seen what has happened with respect to another deregulation model, airlines. When the airline deregulation occurred and the opportunity to judge the competitiveness of certain future structures was given not to the Department of Justice, but instead to the Department of Transportation, we understand what happened. The consumer, in my judgment, has been shortchanged. Mergers that should not have been allowed which the Department of Justice said were anti-competitive were allowed by the Department of Transportation.

If we do not change this bill, if we do not impose this VIII(c) test, in my judgment, we will be left in the same position with respect to telecommunications as we have been with the airlines, and it will not be a friendly position for the American consumer.

The fact is the Department of Justice has promoted competition in the telecommunications industry under both Republican and Democratic administrations. The AT&T investigation began under the Nixon administration. The suit was filed under the Ford administration. It was pursued through the Carter administration, and it was settled during the Reagan administration. On a bipartisan basis, the Department of Justice, I think, has stood up for the interests of the American consumer, attempting to require and impose a competitive test.

You have heard in discussion on the floor of the Senate that the breakup of the Bell system meant that long distance telephone rates have dropped 66 percent and the long distance competitors have constructed four nationwide fiber optic networks in this country,

which is now the backbone of the information superhighway.

If we do not include in the telecommunications legislation the kind of amendment I am proposing, the role that would traditionally have been the role for the Department of Justice will become the burden of enforcement for the FCC. The FCC, I think, clearly is ill-equipped to adequately serve that function.

In 1987, the GAO reported that at its existing staff level, the FCC would be able to audit carrier cost allocations in order to protect ratepayers from cross-subsidization only once every 16 years, and then only on the major carriers.

A 1993 GAO report found that as of 1992, the FCC staff of 14 auditors could, on average, cover the highest priority audit areas once every 11 years and all audit areas once every 18 years. The GAO concluded in that February 1993 report that at the current staffing level, the FCC cannot, in the GAO's words, "provide positive assurance that ratepayers are protected from cross-subsidization."

The only way, in my judgment, to assure that true competition is existing at the local level—and when that exists we free the Bell systems to compete in the long distance area—but the only way to assure that true competition exists is to look at the actual marketplace facts, and the place to do that, the proper place to do that is in the Department of Justice.

I mentioned earlier that last year the very test that I am proposing today for this legislation was in the bill passed by the House of Representatives. That bill passed in the U.S. House with 420 votes. The Senate Commerce Committee passed legislation by an 18-to-2 vote, and it included what I now propose we add to this legislation. So it will be interesting to hear the cries of those who come to the floor and say, "Gee, this is way out of bounds, this is really radical stuff you are proposing." I want to hear the wailing of those who oppose this and ask them if what the House of Representatives did with 420 votes last year or what the Senate Commerce Committee did by an 18-to-2 vote last year was truly radical, or has somehow the public interest standard changed in 12 months? And if so, what is that change? Did the election last year tell us that the Department of Justice had to have its wings clipped with the question of whether or not there is competition before we decide to change the circumstances under which the Bell systems can compete for long distance? I do not think so.

I think the American people expect and the American people would require us to believe that competition is fair competition and that true competition exists before we decide to allow the Bell systems to get involved in long distance and potentially create monopolistic conditions in a segment of the industry that is now highly competitive.

I want to read some comments about last year's test, which I now propose in this year's bill. James Cullen, the president of Bell Atlantic, March 8, 1994, wrote a letter to Senator HOLLINGS, and he said this about the standard I am now proposing:

The section VIII(c) standard is the correct test for whether a Bell company should be allowed to provide interstate long distance services. Under this test, the restrictions imposed on a Bell company shall be removed upon a showing by the petitioning BOC that there is no substantial possibility that it could use its monopoly power to impede competition in the market it seeks to enter.

Cullen also confirmed that the VIII(c) test was the appropriate test when he testified before the Senate Commerce Committee on May 12, 1994.

The CEO of Pacific Telesis, Sam Guinn, wrote to Senator HOLLINGS on March 16, 1994, stating this:

The VIII(c) test—the ability to impede competition in the market we're entering, the long distance market—is the appropriate test. A test based on local competition just won't work.

William Weiss, then chairman and CEO of Ameritech, wrote to Senator Danforth saying:

An entry test, based on antitrust principles, must focus on conditions in the market one is seeking to enter. The modified final judgment (MFJ) provides just such a test. * * * The MFJ provides that the line of business restrictions, including the long distance prohibition, shall be removed when there is no substantial possibility that a regional company could use its monopoly power to impede competition in the market it seeks to enter.

Again, that is from William Weiss, then chairman and CEO of Ameritech.

In fact, Ameritech recently reached an agreement with the Justice Department to conduct a trial to offer long distance service from Grand Rapids, MI, and Chicago, IL. Under that trial, the Department of Justice would have to evaluate competitive conditions in the marketplace to determine that those conditions ensure there is "no substantial possibility that commencement of the experiment could impede competition in interLATA service."

That trial not only uses the VIII(c) standard, but it also requires that actual competition exists prior to Ameritech offering long distance services.

I had the opportunity to visit with Anne Bingaman at the Justice Department, who is in charge of the Antitrust Division, about this very agreement. It is interesting that this agreement uses the VIII(c) test.

There are plenty of claims and there is a great deal of discussion on the floor about this issue, largely because it is an issue that is very controversial at this point.

We have a bill before us that deals with literally hundreds of billions of dollars of revenue to very important segments of our economy, and the industry's breakdown between the long distance industry, the local service carriers. I understand why they would

use some of these things in their own self-interest. I am not interested in their self-interest at this point. I want the telecommunications industry to do well, and I want them to do well especially for our country.

My interest, however, on the floor of the Senate is the public interest. The question is not what benefits them. The question is what benefits the American citizens in the longrun? What benefits our country? What advances our country's economic interests, our public interests?

I think if we evaluate that, we will understand that imposing a requirement that competition exist at the local level before we unharness in the modified final judgment the Bell systems to go compete in the long distance system is in the best public interest. I know some make the case that is not necessary; the FCC can do it. Some make the case that the Justice Department role should not be such a strong role. But they do that, in my judgment, because they represent—or they argue the interests of an \$80 to \$100 billion enterprise out there, the enterprise of local service carriers who want to do something and are prevented from doing it now and who want to be able to unharness themselves with the least possible difficulties. I do not want to put up roadblocks. If they want to compete in long distance, they have every right to do it, as long as they are allowing competition in the local exchanges.

The question is, how can you demonstrate that? All of us understand that it is easy to decide to say you are now allowing local competition. It is easy to create conditions in which you try to demonstrate that is the case, but even as you create conditions to demonstrate that is the case, you can suddenly create other conditions to make it more difficult. Everyone understands that. That is the danger and the dilemma.

We are interested in this 8(c) test, in true competition. We are not interested in theory. We are interested in when true competition exists in the local exchanges, because when it exists, then there is no disagreement on the floor of the Senate about whether the Bells ought to be able to involve themselves in long distance service. Of course, they should.

But the question is when it exists, and who should be the arbiter of that? Those who argue for a weaker standard in the Department of Justice, in my judgment, are making a very serious mistake. It is a mistake that was not made in the last session by the House of Representatives or by the Commerce Department. But something has changed. I do not think it is the facts. I think the political dynamic has changed in some way, and I hope that the public interest need prevails on this issue.

The public interest need, in my judgment, is to have the U.S. Justice Department play the role they have al-

ways played on behalf of the American citizens—to make sure there is robust, healthy competition. When it exists, then we unleash the opportunities for those who now have monopolistic power to get involved in the long distance service. But until it exists, they should not be allowed to do so. Until the Justice Department—the Department with the experience, background and knowledge to make that judgment—is given full opportunity to do so by amending this portion of the bill, I think the American people will be shortchanged. I hope that we will, at this point, reject the second-degree amendment when we get around to voting and that we will adopt the 8(c) standard. I expect there will be a lot of discussion between us in the intervening hours today, tomorrow, Monday, or whenever we vote on these issues. I think this will be one of the most important issues that we resolve on the floor of the Senate as we seek to advance legislation establishing new rules for the 1990's and into the next century in the telecommunications industry.

Let me finish with one additional statement about this issue, and then I want to speak to other areas at some point later in the debate. There is ample discussion on the floor of the Senate about the fruits of competition in these areas. I come from a part of the country where I swear that there will not be much competition. A county of roughly 3,000 people is not going to attract a lot of competitors. A hometown of 300 people is not going to be the cause of fierce competition between eight carriers who want to serve these 800 people. That is not the way competition works. Competition exists in a free market to maximize profits in areas where you yield maximum returns. That is in the affluent neighborhoods of America, in the population centers of America. That was true under deregulation of the airlines, and it will be true under deregulation of the telecommunications industry.

That is why another part of this bill that I care very much about are the protections in this bill for rural America—not protections against competition, but protections to make sure we have the same benefits and opportunities in rural America for the build-out of the infrastructure of this telecommunications revolution, as we will see in Chicago, Los Angeles, New York, and elsewhere. Our citizens are no less worthy of the opportunities that are brought to them by this industry than citizens who live in the biggest cities of our country.

I think once we establish the public interest tests of this legislation, we must do it not only with respect to the role of the Department of Justice, which is important, but also with respect to the issue of universal service and with respect to the issue of concentration of ownership in broadcast facilities. I think if we address those properly, and if we do our jobs the way

I think people expect us to, I think we will have produced a good bill—good for this country, good for all citizens of this country regardless of where they live.

With that, Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today with Senators D'AMATO and DEWINE to offer an amendment to ensure that fundamental antitrust principles will be applied by the Antitrust Division of the Department of Justice to determine when the Bell Operating Companies should be allowed into the long distance and manufacturing markets. My amendment establishes a legal standard to be applied by the Justice Department based on section 7 of the Clayton Act, which the Congress passed in 1914. Under this standard, the Bell companies would be permitted to enter into long distance and manufacturing unless the effect of entry would "substantially lessen competition, or tend to create a monopoly."

Section 7 of the Clayton Act is the well-established and well-known standard used nationwide to determine whether mergers and joint ventures—which affect the economic course of our country—are pro-competitive or not. Indeed, we rely on this Clayton section 7 standard even in areas of national security, as in the recent merger of defense giants Lockheed and Martin Marietta. In the same way, this antitrust standard should be used to determine whether competition and consumers will be served by Bell company entry into new markets.

As chairman of the Judiciary Committee's Antitrust, Business Rights, and Competition Subcommittee, I firmly believe that we must rely on the longstanding bipartisan principles of antitrust law in order to move as quickly as possible toward competition in all segments of the telecommunications industry, and away from regulation. Applying antitrust concepts is vital to ensure that free market principles will work to spur competition and reduce government involvement in the industry.

The standard for permitting Bell company expansion from their local exchange markets into long distance and manufacturing may well be the most important antitrust question in this legislation. This issue results from the 1982 antitrust settlement which divided the single Bell system monopoly into the seven regional Bell companies, and limited the lines of business they could pursue. The debate centers on whether those seven Bell companies should be allowed into long distance and manufacturing markets while maintaining their current market position in local telephone service. The concern is that despite detailed rules, the Bell companies may be able to use their market power in local telephone service to harm competition in the long distance

and manufacturing markets where competition already exists.

It is generally desirable to have as many competitors as possible in each market. I want to make clear that the Bell companies certainly should be allowed to enter long distance and manufacturing under appropriate circumstances. The question is merely when. But the Bell companies should not be allowed to enter without consideration of whether their entry will harm competition. S. 652 does not require antitrust analysis on this point and provides only a minimal consulting role for the Department of Justice.

As drafted, S. 652 allows the Bell companies to get into the long distance and manufacturing markets if they meet a checklist and the FCC finds that entry is in the public interest. The checklist is intended to permit other companies to enter the Bell companies' local exchange markets and compete with the Bells. But the checklist does not require that anyone actually compete with the local exchange monopoly. Moreover, S. 652 appears to require only a single interconnection agreement between a Bell company and a potential competitor—no matter how small—before the Bell company can seek to enter long distance.

Mr. President, I am not confident that this checklist will be adequate to take the place of thorough antitrust analysis. It would be unwise to ignore antitrust analysis. It would be unwise to ignore antitrust principles and risk harm to the substantial competition which has developed in telecommunications markets over the last dozen years through the application of antitrust principles.

The Clayton section 7 standard in my amendment is much more moderate than the so-called "8-C" test from the Modification of Final Judgment which broke up the Bell system monopoly. It is my belief, as one long interested in competition and our antitrust laws, that the language from Clayton section 7 is the best standard to employ. This standard permits the flexible analysis needed to determine when the Bell companies should be allowed to enter into long distance and manufacturing markets.

The Clayton section 7 test would permit Bell company entry into long distance and manufacturing unless entry would substantially lessen competition. Clearly, we should not permit entry which would not only lessen competition, but would substantially lessen competition. The Clayton section 7 standard is well understood and can be fairly applied to ensure ongoing competition in telecommunication markets. The Clayton standard has been applied in each merger in the telecommunication industry, including several large recent ones. This standard provides the proper incentives to the Bell companies to encourage them to open local monopolies to competition, rather than meeting the minimal requirements of a checklist.

Let me make very clear that this Clayton section 7 standard does not necessarily require the Bell companies to lose any market share or even face actual competition in their local exchange markets. The Bell companies often assert that their entry into long distance and manufacturing would benefit competition. If this is true, they could enter those markets promptly under a Clayton section 7 standard, because competition would not be substantially lessened.

Although the Bell companies may not support this standard, it is noteworthy that in the past Bell companies were less critical of the more stringent 8-C test. In fact, there was agreement among Bell companies concerning the 8-C test in the last Congress when negotiating over telecommunications legislation. If the higher standard of the 8-C test was acceptable last year, the familiar Clayton section 7 standard should be considered far more reasonable.

If this antitrust analysis is to be undertaken, as I and many other Members believe it should, the Antitrust Division of the Department of Justice has the necessary background and expertise to conduct the analysis. The Justice Department has some 50 attorneys and other professionals with antitrust expertise in the telecommunications area. The Justice Department was responsible for the breakup of the Bell system monopoly which has resulted in significantly greater competition, and has been continually involved in the industry since that time.

It would be redundant and inefficient to ignore the proven track record and expertise of the Justice Department and begin to develop such know-how in another agency. The Federal Communications Commission does not have expertise in antitrust law, and history shows that it is not desirable to attempt to develop antitrust expertise across a range of Federal agencies. For example, it is now recognized that the Department of Transportation did not give adequate weight to antitrust principles when it conducted its own antitrust analysis of airline mergers. Although the Justice Department had a consulting role, the Transportation Department disregarded the important antitrust expertise of the Justice Department, and approved deals which have resulted in excessive concentration in the airline industry, and higher prices for consumers. It is vital that we avoid this mistake here.

Mr. President, these antitrust issues in the telecommunications legislation affect a huge sector of our economy, and impact every consumer and business in our Nation. The hearing by the Antitrust, Business Rights, and Competition Subcommittee, which I chaired last month, confirmed the importance of ensuring that S. 652 embraces antitrust principles which are adequate to encourage competition and benefit consumers. These principles have been tested and refined by more

than 100 years of antitrust analysis and experience in our Nation.

The purpose of the antitrust laws is not to favor one group over another, but to apply objective principles to encourage competition for the benefit of consumers. When antitrust principles are observed, competition is maximized resulting in lower prices, better services and products, and more innovation for the benefit of consumers and our Nation. If antitrust principles are ignored, however, competition is likely to suffer and concentration of market power in a few companies may lead to harm to consumers, less innovation, and the end of our country's leadership in telecommunications.

Finally, I would note that despite the current claims by some, this important issue of Bell company entry generally has not been partisan in the past. In addition to the concerns of Democratic Members and the current Administration, Republicans have long been champions of applying our antitrust laws in the telecommunications field. In fact, the break up of the Bell system monopoly resulted from the antitrust investigation by the Justice Department begun during the Nixon Administration, from antitrust litigation brought by the Justice Department during the Ford Administration, and from the settlement by Assistant Attorney General William Baxter during the Reagan Administration. In fact, Mr. Baxter wrote to me last month on this subject, encouraging an ongoing role for the Department of Justice in determining when the Bell companies should get into other lines of business, which I included in my Antitrust Subcommittee hearing record. The current antitrust head at the Department of Justice asserts that same position.

For all of these reasons, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I think we have come to a key part of this debate. As I see it, we are trying to decide whether or not the Department of Justice should have a regulatory role in this whole matter.

Under the bill brought to the floor by Senator HOLLINGS and me and others, and by the Commerce Committee, there is a checklist test at the FCC and there is a public interest test at the FCC. There is also required that the Attorney General be consulted. And he might make a recommendation based on the 8(c) test, or he might make a recommendation based on the Clayton Act, or he might make a recommendation on public interest standards.

The Justice Department is not supposed to be a regulatory agency. Its duties are in the antitrust area. If we adopt either of these amendments, we are basically continuing to employ about 200 people over at Justice who are regulators and not people who interpret antitrust law. We are making the Department of Justice into a regulatory agency when it is supposed to be

dealing with interpretations of anti-trust law.

What has happened under Judge Greene's order, partially out of necessity, is that the Justice Department began hiring whole legions of people over there to administer the consent decree. For example, the Ameritech waiver has been cited. The Ameritech company in the Chicago area has been, quite rightly, allowed to do some things by the Department of Justice under Judge Greene's consent decree. And quite appropriately, because Congress has not acted.

That is one thing about this bill. We are at least trying to get Congress to do this instead of the courts. But if we allow the Justice Department to begin regulating, it will be like in the Ameritech decision. I am not saying the Ameritech decision is wrong, but it shows how the Justice Department likes to use its people as regulators.

That Ameritech waiver, the proposed waiver, creates a highly regulatory process under which Ameritech may be able to obtain temporary interLATA authority, but only on a resale basis and only for calls originating from the Illinois portion of the Chicago LATA and the Grand Rapids LATA in Michigan, areas that serve only 1.2 percent of the area's population.

But the point is, the chief regulator in this process is the Department of Justice, the same Department that has frequently taken from 3 to 5 years to process waivers under the existing decree. So this means we are probably adding 3 to 5 years of regulation if we adopt the amendment by my friend from North Dakota. This is more Government regulation. This is supposed to be a deregulatory bill. We are supposed to be deregulating here, but we are adding another formal layer of regulation.

We have already pointed out that the Ameritech decision is illustrative of the regulatory function of the Department of Justice. And they want to keep these people employed over there. They want to keep on being regulators. They want to be something other than what they are constitutionally created to be. After this bill passes, the Department of Justice will not have to carry out that role. That will save the taxpayers a lot of money; moreover, it will lessen regulation. Indeed, I would like someday to see the FCC substantially reduced.

But under this amendment we are not only keeping the FCC using both the checklist and the public interest standard, we are also going a step further and saying after they get through we are going to send it over to Justice and do the same thing all over again with another set of regulators. That will take 3 to 5 years, I do not care how you slice it, because that is the way it has been in the past and that is the way the Department of Justice functions. Anything that goes over there, it will take 3 to 5 years to get a decision

out and there is ample evidence to illustrate that.

The point I made about Ameritech is that it shows the Department of Justice likes even to write telephone books over there. That is not the business they are supposed to be in. They are in the business of antitrust and the big picture of law.

The Dorgan amendment would give the Department a separate, independent clearance in addition to the FCC's clearance for determining whether the Bell operating companies have complied with the checklist for opening their networks to their new competitors.

Providing this authority to the Justice Department is unprecedented. The Antitrust Division of the Justice Department has never had decisionmaking authority over regulated industries or any industry. Justice was given a role under the modified final judgment, the consent decree which governed the breakup of AT&T. One of the key reasons for passing telecommunications legislation is once and for all to establish national policy, thus phasing out the MFJ.

How is the modified final judgment administered today? The U.S. district court retains jurisdiction over those companies that were party to the MFJ. The court then asked the Justice Department Antitrust Division to assume postdecree duties. The Antitrust Division provides Judge Harold Greene of the district court with recommendations regarding waivers and other matters regarding the administration of the MFJ.

Does the Antitrust Division have decision authority over the MFJ? No. The U.S. district court, in the person of Judge Greene, has sole decisionmaking authority over the administration of the MFJ. The Antitrust Division at Justice essentially acts as Judge Greene's staff attorneys. Obviously, those several hundred attorneys in Justice want to keep their jobs, and the Justice Department wants to keep that bureaucracy going.

Let us review the kind of job that has been done there by those regulators in the Justice Department. First of all, the Justice Department has not conducted triennial reviews effectively, or every 3 years, as it is supposed to. When the MFJ was instituted, Justice said it would conduct reviews every 3 years, known as the Triennial Review, to make recommendations to the court regarding the continued need for restrictions implemented under the MFJ. The Triennial Reviews were to provide parties to the MFJ with a "benchmark" by which to gain relief.

Since 1982, only one Triennial Review has been conducted.

Waiver requests: Justice is slow—very, very slow. Bell operating companies are required under the MFJ to obtain DOJ review of waiver requests before filing with the district court.

In 1984, Justice disposed of 23 waiver requests with the average age of waiv-

ers pending at Justice being 2 months. In 1994, Justice disposed of 10 waiver requests with the average age of the 30 waivers pending at DOJ at the end of the year being approximately 30 months. That is, people had to wait 30 months for a decision.

Justice review of the waiver requests takes almost as much time for each waiver as the time that was intended to elapse between the Triennial Reviews, which have not been done. One may think that many of these waiver requests must be controversial because they take so long for Justice to make a decision. This is not the case. In fact, the district court has approved about 96 percent of the waiver requests filed before it.

So I say we should say no to a co-equal Justice role in regulation.

The Justice track record in fulfilling its obligations under the MFJ is poor. Why would Congress wish to give the Department an unprecedented role that they do not have under the existing MFJ?

S. 652 gives Justice a role but instead of reporting to Judge Greene with its recommendations, the Justice Department would make its recommendations to the FCC, the proper authority.

There is no reason why two federal entities should have independent authority over determining whether the very clear congressional policy has been met.

THE U.S. DEPARTMENT OF JUSTICE SHOULD NOT CONTROL BELL CO. ENTRY INTO NEW LONG DISTANCE

The U.S. Department of Justice is asking that it be given a "decision-making" role in the process of reviewing applications for Bell Co. entry into long distance telephone service. A grant of such authority to Justice is unprecedented. It goes far beyond the historical responsibility of Justice, is a significant expansion of the Department's current authority under the MFJ; and raises constitutional questions of due process and separation of powers.

First, assigning a decisionmaking role to Justice is unprecedented.

The Antitrust Division of the U.S. Department of Justice has one duty: to enforce the antitrust laws, primarily the Sherman and the Clayton Acts.

It has never had a decisionmaking role in connection with regulated industries. The Department has always been required to initiate a lawsuit in the event it concluded that the antitrust laws had been violated. It has no power to disapprove transactions or issue orders on its own. While the U.S. district court has used the Department of Justice to review requests for waivers of the MFJ, the Department has no independent decisionmaking authority. That authority remains with the courts.

Second, decisionmaking authority should reside in the agency of expertise.

In transportation, energy, financial services, and other regulated businesses, Congress has delegated decisionmaking authority for approval of transactions that could have competitive implications with the agency of expertise, and typically has directed the agency to consider factors broader than simply the impact upon competition in making its determinations. This approach has worked well. It contrasts with the role Justice seeks with regard to telephony.

Third, assigning a decisionmaking role to Justice establishes a dangerous precedent that could be expanded to other industries.

Telecommunications is not the only industrial sector to have a specific group of Justice Department Antitrust Division lawyers devoted to examination of its discrete competitive issues and market structure. The Antitrust Division has a Transportation, Energy and Agriculture Section, a Computers and Finance Section, a Foreign Commerce Section, and a Professions and Intellectual Property Section. The size of the staff devoted to some of these sections is roughly equivalent to that devoted to telecommunications.

If the Department has special expertise in telecommunications such that it should be given a decisionmaking role in the regulatory process, does it not also have special expertise in other fields as well? Today's computer, financial services, transportation, energy and telecommunications industries are far too complex, and too important to our nation's economy, to elevate antitrust policy above all other considerations in regulatory decisions.

Fourth, the Justice Department proposal raises constitutional questions of due process and separation of powers by failing to define an appeals process or an appropriate standard of review for agency determinations.

The Justice Department, in requesting a decisionmaking role in reviewing Bell Co. applications for entry into long distance telephone service, seeks to assume for itself the role currently performed by U.S. District Judge Harold Greene. They want to keep on doing things the way they are but they are going to replace Judge Greene with themselves, unnecessarily so. It does so without defining by whom or under what standards its actions should be reviewed. Typically, as a prosecutorial law enforcement agency, actions by the Department of Justice have largely been free of judicial review. In this case, the Department also seeks a decisionmaking role. As a decisionmaker, would the Antitrust Division's determinations be subject to the procedural protections and administrative due process safeguards of the Administrative Procedure Act? What does this do to the Department's ability to function as a prosecutorial agency? Should one agency be both prosecutor and tribunal?

Congress should reject the idea of giving the Justice Department a deci-

sionmaking role in reviewing Bell Co. applications to enter the long distance telephone business. It is bad policy, bad procedure, and bad precedent.

DOJ IS THE PROBLEM, NOT THE ENTRY
STANDARD FOR THE RBOC'S

The Sherman and Clayton Acts give the Justice Department ample authority to assure the RBOC's comply with the antitrust laws as they enter the long-distance business.

I think those two acts, the Sherman and Clayton standards, have come to be known as very good standards. They are under the Justice Department's legitimate role.

The Justice Department has never had a decisionmaking role in connection with regulated industries, or any other industry. The decisionmaking role should reside in the FCC: the agency with the regulatory expertise.

The issue centers around the way the Justice Department administers its current responsibility under the MFJ and the length of time the Department takes to reach its decisions, not what, if any, standard should be applied to RBOC entry into the long distance business.

The Department has consistently interpreted section VIII C of the MFJ to mean there must be actual and demonstrable competition, when in fact the section only requires that the entity entering a market not have the "substantial possibility that it could use its monopoly power to impede competition."

The Justice Department has been unable to loosen its grip on the reins of regulation, nor handle issues in a timely fashion. In 1984 the average age of pending waivers was two months. In 1993, the average age of pending waivers was 3 years.

The Department of Justice has one duty: to enforce the antitrust laws. It should not be allowed to become the police officer, judge, and jury for the telecommunications industry.

So, Mr. President, in summary and in conclusion, let me say to my colleagues that we have worked out a bipartisan bill in the Commerce Committee. All Democrats voted for it and two Republicans voted against, and all the other Republicans voted for it in the committee. It is a carefully crafted bill that would be deregulatory yet would protect the public interest and the taxpayers. In that bill we set the standard. We are trying to get everybody into everybody else's business. We are trying to break up the economic apartheid. We are trying to encourage small business entry.

If we can pass this bill, it will be like the gun going off in the Oklahoma land rush because investors and consumers and entrepreneurs will have a road map to take us into the wireless age.

This is a transitional bill, as I see it. If we add another layer of regulation on this bill, if we add the Department of Justice doing the same thing the FCC is doing, then we are merely adding another 3 to 5 years to any deci-

sions. The Justice Department just does not move very fast. We would be giving to the Justice Department, which is supposed to interpret the Sherman and Clayton Acts, a regulatory role. I know there are about 200 lawyers over there in Justice who have been carrying out Judge Greene's orders. They are Judge Greene's attorneys. That is because Congress failed to act.

I am not criticizing Judge Greene. I am not criticizing those attorneys. But in S. 652 we have set up a system and a process that is very fair. There is the competitive checklist, and the FCC can use the public interest standard. The public interest issue was voted on today in this body. We have tried to work these things out.

I know there is a great nervousness between the long distance companies and the regional Bells. But we have reached a balance. These amendments would throw that balance off. But worse, they would disserve the public because the public wants lower cost telephones and lower cost cable rates. They are getting, in this amendment, more regulations, more delays. There would be more delays in developing new devices.

The cellular phone was invented in the late fifties. But because of Government regulation, we did not really see much of them until about 1985. Then the cellular phones came onto the market without much regulation. Now the price is coming down, and more and more people are buying them. Still, it took 40 years because of Government regulation.

That is what this amendment is about. This amendment is for more Government regulation. We need to be deregulators. We need to be procompetitive.

This is a very important amendment. I urge that we vote this amendment down, the underlying amendment, and any second-degree amendment, because this goes to the very heart of the debate in the Senate tonight. It is deregulation. We go on and on with layers of people to approve things going from one agency to another to another to another. We go on and on asking people to wait 3 to 5 years. We have people in the Justice Department who want to oversee the writing of yellow pages in telephone books. They are supposed to be interpreting the Sherman and Clayton antitrust acts. That is what the Justice Department is for. The FCC has another role.

I urge when we come to this that we vote it down. It is a very regulatory amendment.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Could I just yield momentarily? I think the Senator from North Dakota has an amendment of clarification to his amendment.

AMENDMENT NO. 1264, AS MODIFIED

Mr. DORGAN. Mr. President, I send a modification to my amendment to the

desk, and I might tell the Senate the modification is to form only, not to substance. And I ask the modification be accepted.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1264), as modified, is as follows:

On page 82, line 23, beginning with the word "after", delete all that follows through page 91, line 25, and insert the following:

"to the extent approved by the Commission and the Attorney General".

"in accordance with the provisions of subsection (c);

"(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

"(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

"(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this section only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

"(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

"(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

"(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

"(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

"(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

"(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

"(F) Local switching unbundled from transport, local loop transmission, or other services.

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

"(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

"(iii) operator call completion services.

"(H) White pages directory listings for customers of the other carrier's telephone exchange service.

"(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

"(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control

points, and signaling service transfer points, necessary for call routing and completion.

"(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

"(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

"(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

"(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale—

"(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers different from the category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

"(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5)

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange "area where that company is the dominant provider of wireline telephone exchange service or exchange access service," a telecommunications carrier may not jointly market in such telephone exchange area telephone exchange service purchased from such company with interLATA services offered by that telecommunications carrier.

"(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

"(c) IN-REGION SERVICES.—

"(1) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission and Attorney General for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

"(2) DETERMINATION BY COMMISSION.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part.

"(B) APPROVAL.—The Commission may only approve the authorization requested in an application submitted under paragraph (1) if it finds that—

"(i) the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2); and

"(ii) the requested authority will be carried out in accordance with the requirements of section 252,

and if the Commission determines that the requested authorization is consistent with the public interest, convenience, and necessity. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

"(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission shall publish in the Federal Register a brief description of the determination.

"(4) DETERMINATION BY ATTORNEY GENERAL.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application made under paragraph (1), the Attorney General shall issue a written determination with respect to the authorization for which a Bell operating company or its subsidiary or affiliate has applied. In making such determination, the Attorney General shall review the whole record.

"(B) APPROVAL.—The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its subsidiaries or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications service market such company or its subsidiary or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization."

"(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register."

"(4) JUDICIAL REVIEW.—

"(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission or Attorney General is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission and Attorney General under paragraph (1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in its application, may commence an action in any United States Court of Appeals against the Commission or the Attorney General for judicial review of the determination regarding the application.

"(B) JUDGMENT.—

"(i) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United States Code.

"(ii) A judgment—

"(I) affirming any part of the determination that approves granting all or part of the requested authorization, or

"(II) reversing any part of the determination that denies all or part of the requested authorization, shall describe with particularity the nature and scope of the activity, and

of each product market or service market, and each geographic market, to which the affirmative or reversal applies.

"(5) REQUIREMENTS RELATING TO SEPARATE AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DIALING PARITY.—

"(A) SEPARATE AFFILIATE SAFEGUARDS.—Other than interLATA services * * *".

Mr. HOLLINGS. Mr. President, I am probably a good witness to settle this case because much of what has been referred to is what we did last year and the year before.

As the Clinton administration came to office, we had the original hearing. I remember it well. Secretary Brown of Commerce appeared. He asked for the Department of Justice. I cross-examined him very thoroughly on that because what we were trying to do was deregulate, what we were trying to do is sort of give us the term in the market, one-stop shopping. And if there were any inadequacies in the administrative body, namely the Federal Communications Commission, it was incumbent on me, I felt, as a Senator to make sure those inadequacies were considered. I felt the administration felt very, very strongly about this. And what you do in Government in the art of the possible is you get a bill.

So while I really wanted to have the one-stop shopping, I went along with the majority vote overwhelmingly as has been referred to. We had an 18 to 2 vote, and that kind of thing.

We had the Bell companies, the Senator from North Dakota is quite correct, reading the 8(c) test that is a part of his amendment, and the amendment, of course, of the distinguished senior colleague of mine from South Carolina, Senator THURMOND, is whether or not it will substantially lessen competition. One is the no substantial possibility to use monopoly power to impede competition. That is once competition has already ensued. The Dorgan amendment.

The Thurmond amendment is to the effect of reviewing ahead of time a merger, for example, to see whether it would substantially lessen competition.

We begin with the fundamental that to monopolize trade is a felony, and these communications people are not criminals—not yet, in any event, and they do not belong in the Justice Department unless they violate the law.

So looking at the majority vote in the art of the possible in getting a good communications bill passed, I was very careful.

Number one, if all the colleagues would turn to page 8, I think it is, of S. 652, and you look down starting at line 20, section 7, "Effect on other law," I read this simple line:

Except as provided in subsections (b) and (c)—

which have to do with the MFJ and the GTE consent decrees—

Except as provided in subsections (b) and (c), nothing in this act shall be construed to modify, impair, or supersede the applicability of any antitrust law.

So let us clear the air. S. 652 says antitrust, keep all your experts; do all your reviews; study all your studies; make all your motions.

How many years does it take? They are so proud: Well, the Justice Department is the one that broke up the AT&T. Well, if they wait for them to break up the next monopoly in a similar fashion, we will all be term limited. Even the senior Senator might not be here. I do not know. It will be long enough, I can tell you that.

So let us get right down to it. The Antitrust Division has its responsibilities under Section 7 of Clayton. It has its responsibility with respect to the Sherman Act, whether any violations are there because that is how they moved with respect to AT&T.

The thrust here is by the long distance crowd to get some more bureaucracy.

That stated it in a line.

Just like my friends, the Bell crowd, wanted to do away with the public trust, this long distance crowd wants to bureaucratize the entire thing like the end of the world is going to happen if you do not have the Justice Department bureaucracy and minions studying, moving, motioning, hearing, and everything else.

I graduated from law school. I had a colleague I think who joined the Louisiana land case down there. Like the Georgia Pacific, they had the Louisiana pulp and paper case. It was a long—well, 13 years later, under the fees he got, he was retired down in Florida. And I always regretted that I went to trying cases in my hometown and did not get connected up with one of those rich antitrust motions.

We are all spoiled. You have a wonderful Assistant Attorney General in charge of the Antitrust Division, Ms. Anne Bingaman, who has done an outstanding job with respect, for example, to the Microsoft case and engineering the Ameritech consent decree. You have a wonderful set of facts there where they were all petitioning and joining in. They were not enjoining. They were not motioning to estop. They were not appealing. And they were not getting clarifications and everything else, all these other motions that can be made under antitrust with findings and what have you.

This was already under the Department of Justice consent decree, the MFJ consent decree whereby they could come in and motion the judge and agree on a limited market that was outlined, and you did not have to go into the regular antitrust bureaucracy and ritual that takes years on end, which they have already put in the Record, fortunately, for me.

The Senator from North Dakota talked about starting with President Nixon, President Ford, President Carter, and then finally under President Reagan. So there is a strong feeling here that we tried to simplify as much as possible this proceeding.

And under the amendment of the Senator from North Dakota about the

8(c) test, no one knows it better than I because I did cite those letters and understanding and everything else of that kind. Because of the way 1822 was drafted year before last, it had actual and demonstrable competition. That just threw everything into the fan, and before I could get around and explain anything to the colleagues and everything else what we were trying to do, they just had a mindset that the chairman of the Commerce Committee was off on a toot and a little mixed up and it was not going to go anywhere. I had to agree with them; I was not going to go anywhere. So we sat down and over a 2-year period, meeting every Friday with all the Bell companies, and meeting every Tuesday morning with all of the long distance companies and the other long distance competitors in there, we then started spelling out as best we could that checklist of what actual and demonstrable competition would encompass. So we spell this out dutifully.

I wish to read that to you because I wish to show you what actual and demonstrable, what 8(c) is. The idea is that we have disregarded the admonition that there be no substantial possibility of using monopoly power to impede competition.

Well, how do you determine that? You determine that best by making a checklist of the unbundling, of the local exchange, the interconnection after it is unbundled. You get the dial parity. You set up a separate subsidiary and all the other particular items listed.

I have a wonderful group here that is very familiar with the bill. They know how exactly to turn to the page and section so I can read it to you. But while they search for it, which is very difficult to find, what we did is we dutifully spelled out the 8(c) test, which is the amendment of the Senator from North Dakota, and thereupon put in the bill itself, which, again I think, is on page 89. Understand, we had not disregarded actual and demonstrable competition. On page 16, line 10:

(b) MINIMUM STANDARDS.—An interconnection agreement entered into under this section shall, if requested by a telecommunications carrier requesting interconnection, provide for—

(1) nondiscriminatory access on an unbundled basis to the network functions and services of the local exchange carrier's telecommunications network software to the extent defined in the implementing regulations by the Commission.

(2) nondiscriminatory access on an unbundled basis to any of the local exchange carrier's telecommunications facilities and information, including databases and signaling, necessary to the transmission and routing of any telephone exchange service or exchange access service and the interoperability of both carrier's networks;

(3) interconnection to the local exchange carrier's telecommunications facilities and services at any technically feasible point within the carrier's network;

(4) interconnection that is at least equal in type and quality to and offered at a price no higher than that provided by the local exchange carrier to itself or to any subsidiary,

affiliate, or any other party to which the carrier provides interconnection;

(5) nondiscriminatory access to the poles, ducts, conduits and rights-of-way owned or controlled by the local exchange carrier at just and reasonable rates;

(6) the local exchange carrier to take whatever action under its control is necessary, as soon as is technically feasible, to provide telecommunications number portability and local dialing parity in a manner that.

(A) Permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service in the market served by the local exchange carrier;

(B) permits all such carriers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing with no unreasonable dialing delays; and

(C) provides for a reasonable allocation of costs among the parties to the agreement.

(7) telecommunications services and network functions of the local exchange carrier to be available—

AMENDMENT NO. 1265, AS MODIFIED

Mr. THURMOND. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 1265), as modified, is as follows:

Strike all after the first word of the pending amendment and insert the following:

(2) Section 309(d) (47 U.S.C. 309(d)) is amended by inserting "(or subsection (k) in the case of renewal of any broadcast station license)" after "with subsection (a)" each place it appears.

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

SEC. 221. REMOVAL OF LONG DISTANCE RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 *et seq.*), as added by this Act, is amended by inserting after section 254 the following new section:

"SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

"(a) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 under section II(D) of the Modification of Final Judgment, a Bell operating company, that meets the requirements of this section may provide—

"(i) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service to the extent approved by the Commission and the Attorney General of the United States, in accordance with the provisions of subsection (c);

"(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

"(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

"(i) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this action only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

"(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

"(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

"(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

"(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

"(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

"(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

"(F) Local switching unbundled from transport, local loop transmission, or other services.

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

"(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

"(iii) operator call completion services.

"(H) White pages directory listings for customers of the other carrier's telephone exchange service.

"(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

"(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion.

"(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

"(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

"(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

"(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale—

"(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

"(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5).

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange "area where that company is the dominant provider of wireline telephone exchange service or exchange access service," a telecommunications carrier may not jointly market telephone exchange service in such telephone exchange area purchased from such company with interLATA services offered by that telecommunications carrier.

"(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

"(c) IN-REGION SERVICES.—

"(i) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission and the Attorney General for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

"(2) DETERMINATION BY COMMISSION AND ATTORNEY GENERAL.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (i), the Commission and the Attorney General shall each issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part.

"(B) APPROVAL BY COMMISSION.—The Commission may only approve the authorization requested in an application submitted under paragraph (i) if it finds that—

"(i) the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2); and

"(ii) the requested authority will be carried out in accordance with the requirements of section 252,

and if the Commission determines that the requested authorization is consistent with the public interest, convenience, and necessity. In making its determination whether the requested authorization is consistent with the public interest convenience, and necessity, the Commission shall not consider the antitrust effects of such authorization in any market for which authorization is sought. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

"(C) APPROVAL BY ATTORNEY GENERAL.—The Attorney General may only approve the authorization requested in an application submitted under paragraph (i) if the Attorney General finds that the effect of such authorization will not substantially lessen

competition, or tend to create a monopoly in any line of commerce in any section of the country. The Attorney General may approve all or part of the request. If the Attorney General does not approve an application under this subparagraph, the Attorney General shall state the basis for the denial of the application."

"(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission and the Attorney General shall each publish in the Federal Register a brief description of the determination."

"(4) JUDICIAL REVIEW.—

"(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission or the Attorney General is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission and the Attorney General under paragraph (1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in its application, may commence an action in any United States Court of Appeals against the Commission or the Attorney General for judicial review of the determination regarding the application."

"(B) JUDGMENT.—

"(i) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United States Code."

"(ii) A judgment—

"(I) affirming any part of the determination that approves granting all or part of the requested authorization, or

"(II) reversing any part of the determination that denies all or part of the requested authorization,

shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmation or reversal applies."

"(5) REQUIREMENTS RELATING TO SEPARATE AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DIALING PARITY.—

"(A) SEPARATE AFFILIATE; SAFEGUARDS.—Other than interLATA services au—"

AMENDMENT NO. 1264, AS MODIFIED

Mr. HOLLINGS. I thank the distinguished Senator.

(7) telecommunications services and network functions of the local exchange carrier to be available to the telecommunications carrier without any unreasonable conditions on the resale or sharing of those services or functions, including the origination, transport, and termination of such telecommunications services, other than reasonable conditions required by a State; and for the purposes of this paragraph, it is not an unreasonable condition for a State to limit the resale—

(A) of services included—

I could keep on reading. I hope the colleagues will refer right on past page 19.

How this was developed is powerfully interesting, Mr. President, because we had the lawyers. I said earlier today 60,000 lawyers are licensed to practice before the District of Columbia bar; 59,000 of them are communications lawyers, and they have all been meeting here for the last 2 years. They know every little motion, every little twist, every little word, every little turn.

This is nothing about the Department of Justice. All of this has to be done by the Federal Communications

Commission. Talk about expertise. How high and mighty and what a great aura of austerity and other things we have to have here for the Department of Justice. The Department of Justice looks out at the market and finds out if there is any unreasonable monopolistic practices in restraint of trade. They have a very broad thing. They do not look at any of these things. They would not be equipped to and would not know.

When you get through having done all of this, which really ends up into actual and demonstrable competition, which ends up actually being the 8(c) test under the modified final judgment, when you have done all of that, there is one other catchall, and that was referred to earlier today in an overwhelming vote of the public interest standard. That is why you had it, Mr. President. For everybody's understanding, if you wanted to know why they were fighting to get rid of the public interest standard, we had the catchall in there that the public interest standard had to be adhered to, and that was measured by the Federal Communications Commission.

Here is how that reads:

If the commission determines the requested authorization is consistent with the public interest convenience and necessity. . .

Now that is a tremendous body of law under the present and continuing to be 1934 Communications Act. Oh, it would be great to come and have the Pressler Act, the Hollings Act. We could go down in history.

But there is a tremendous body of law under the 1934 Communications Act, and if we started anew with an entirely new communications act for our own egos around here, then we would have really messed up 60 years of law and decisions, *res adjudicata*, understandings, and we would have caused tremendous mischief. We would not have deregulated anybody. We would have thrown the information superhighway into the ditch.

So what we did is refer back to that where it is referred as a public interest matter 73 times under the original 1934 act.

The Commission, after doing all of that, has at its hand a duty affirmatively—you are talking about affirmative action in Washington these days. The affirmative action imposed upon the Federal Communications Commission is found on page 89 where the "Commission shall consult with the Attorney General regarding the application. In consulting with the Commission under this subparagraph, the Attorney General may apply any appropriate standard."

Then if the colleagues would turn to page 43 of the committee report:

Within 90 days of receiving an application, the FCC must issue a written determination, after notice and opportunity for a hearing on the record, granting or denying the application in whole or in part. The FCC is required to consult with the Attorney General regarding the application during that 90-day pe-

riod. The Attorney General may analyze a Bell operating company application under any legal standard (including the Clayton Act, Sherman Act, other antitrust laws, section 8(c) of the modified final judgment, Robinson-Patman Act or any other antitrust standard).

I can tell you, Mr. President, that you cannot do a better job than that. I have no misgivings for the wonderful vote on the good bill, 1822. We were ready, willing and able to pass it as it was. I was passing it the best way we could. But on second thought, looking at the votes, the support, the determination of the colleagues—and that is what we all said in the very beginning, that this is a good balance, we do not disregard the public on a fundamental here. What we do—and it is well to be argued—is that we consider the public. If you go down all the particular things required, plus the public interest standard, if you go into the Attorney General coming in, you know that is going to raise a question if the Attorney General sees any substantial possibility of monopoly power being used to impede competition or the other Clayton 7 act substantially lessening competition.

Either way, or any other way, under the Sherman Act, the Attorney General has an affirmative duty to advise, and that is right quick like, because they have to do it under a stated time here in our act. I do not know how to more deliberately go about the particular granting of licensing and opening up of markets, allowing the Bell operating companies into long distance and the long distance into the Bell operating companies and to let competition ensue.

So both of these amendments—the amendment of the distinguished Senator from South Carolina to the second degree under the Clayton 7 test is cared for under this S. 652. The 8(c) test of no substantial possibility, of impeding competition, is taken care of here. And over and above it all, it is stated clear on page 8 of the particular bill that all standards can be used by the Attorney General. The Attorney General has its duties. They are generally criminal duties, and we should not have our wonderful carriers, whether they be Bell operating companies, long distance companies, or any other telecommunications carriers, even calling over there and trying to find a Justice department lawyer, rather than a Federal Communication Commission lawyer. It is like ailments physically, when you have to get a special doctor. Well, you need a special lawyer for that. Once he gets into that and they get the billable hours and the motions and clarifications and everything else, you can forget about your communications company. It has gone down the tubes financially. We put it in there to make sure that the Antitrust Division of the United States Justice Department is not impeded in any fashion.

"Nothing in this act shall be construed to modify, impair, or supersede

the applicability of any add antitrust law."

Now, why do we have these amendments? The long distance crowd are wonderful people. I have been working with them, and I have been working with the Bell companies. We all say that everybody has to get together and we have to get this bill passed. We have to do it in a bipartisan fashion. It is incumbent on this Senator's judgment here at this particular time that this is far and away the best approach.

So I support our distinguished chairman here in his S. 652, to eliminate the direct hearing process, and everything else, of going first to one department of Government and after you get through with that department of Government, come down over to the next department of Government, and then go through all of that list of things that I have listed down there and expect to get anything done.

We are trying to get one-stop shopping here. There is no reason other than, yes, if you get a violator, and if you get a violator with all of this klieg light of attention being given to communications and the responsibilities to the FCC and the experts they are going to have to hire. They have already made \$7 billion for us this year with auctions. So there is no shortage of money at the FCC.

We have to make sure we have the Federal Communications Commission's appropriations in our subcommittee of appropriations, and we are going to provide a very outstanding staff, because we want to facilitate. We do not want the FCC coming back and saying we are overwhelmed and we cannot possibly get it out and we cannot do this and that. Temporarily, for 2, 3 years, sitting down and promulgating all of the rules, entertaining all of the petitions and what have you, there is going to be a plethora of legal proceedings looking at both the 8(c) tests and section 7 of the Clayton Act, and all other measures with respect to trying to open up and make sure that on the one hand there is competition, and on the other hand that any present monopoly power is not used to impede that competition. I do not know how you can get it done any better than that.

This amendment would really just formalize both things constituting a requirement to get the lawyers and go up and go through one and go through the other, where these two can really communicate, not only by phone—communications, that is—but they can send a letter and give a formal opinion, and everything else like that, and you can bet your boots that the Federal Communications Commission is not going to disregard the advice of that Attorney General if it is a strong showing in its opinion that there is some substantial possibility of impeding competition, or that it lessens substantially competition.

No FCC is going to get by with that. That appeal will go up, and the order

would not go anywhere before it would be appealed up and probably set aside, because then it would have one division of the Government against the other division.

We have smoothed it out and streamlined it. We have cut out the bureaucracy, and yet, we have had every particular safeguard that you can imagine, that the lawyers could think of that is in here, to make sure that it works and works properly for the public interest.

I yield the floor.

Mr. KERREY. Well, I must say, Mr. President, I rise with some trepidation. The distinguished Senator from South Carolina has made a very impressive legal case as to why the language in the bill, as it is written, is satisfactory and the distinguished Senator from South Dakota, prior to him, laid out a number of reasons why the amendment offered by the Senator from North Dakota is wrong.

I say to my colleagues that I do not come here representing the long distance companies or any other companies. I come here representing the consumers, first of Nebraska, and then of the United States of America. And I hear in the arguments offered here that, first of all, this would be an unprecedented thing for the Justice Department to do. Well, if it is our fear of breaking precedent that is the problem with this amendment, then we should not enact this legislation. This legislation is unprecedented, is it not?

I ask the distinguished Senator from South Dakota, is this legislation not itself unprecedented? Has the Congress of the United States of America ever considered a law that would take such a substantially regulated monopoly with such size and move it into a competitive environment? When have we done this before, of this size and magnitude?

Mr. HOLLINGS. If the Senator will yield. AT&T.

Mr. KERREY. The AT&T divestiture was done by the Department of Justice, not the Congress.

Mr. HOLLINGS. It took 10 years. We do not want to do that.

Mr. KERREY. My point here is, to say that what we are asking for with this amendment is unprecedented leads me to the question, is this legislation itself not unprecedented? Is not what Congress is considering with S. 652 unprecedented? I do not come to the floor and say let us not do S. 652 because it is unprecedented. I understand it is unprecedented. We are in uncharted waters. We have not done this before.

Mr. PRESSLER. Will my friend yield?

Mr. KERREY. I yield.

Mr. PRESSLER. We are in uncharted waters in the sense that already the Department of Justice is running an industry, so to speak. That is without precedent in terms of Judge Greene's order, which I think was necessary, because Congress did not do its duty. Congress is now doing its duty or trying to in this bill.

Mr. KERREY. The Senator is saying that the Congress, the fact that we had divestiture of AT&T in 1985 was the failure of the U.S. Congress?

Mr. PRESSLER. In part, yes. The Congress should have acted.

Mr. KERREY. Mr. President, I ask the Senator from South Dakota what would he propose Congress do?

Mr. PRESSLER. Congress has been paralyzed and unable to make telecommunications policy because there are so many people in telecommunications who can checkmate the decision. So as telecommunications was modernizing, the Congress was not reacting, and the pressure built up to the point that Judge Greene made the decision that he did.

Mr. HOLLINGS. Will the Senator yield?

Mr. KERREY. Pleased to yield.

Mr. HOLLINGS. We had 10 years of hearings. John Pastore of Rhode Island was chairman of the subcommittee, and in the late 1960's and all the way through the entire 1970's we had hearings.

I got a nice compliment from Judge Greene. Minority opinions that we put in the committee reports, after all of our hearings, trying to break up AT&T. Congress was trying to do it because there were 12 orders that were made by the Federal Communications Commission, but they, AT&T, was so legally powerful that they had each of the 12 orders into some legal snarl of one kind or another, whereby none of the orders were enforceable. They could not get anything done, and we could not de-regulate.

That is why they were accelerating the particular antitrust proceedings. Congress was unable to act. I am a witness to that because I served on that subcommittee and went to hearings ad nauseam, trying to do it, and we make up the reports and everything else. Finally, it had to be done by the Justice Department.

It is just like the Senate passing different bills. We tried during the 1980's to take this from Judge Greene and put it back into the FCC and got nowhere. We had the manufacturing bill pass by 74 votes—bipartisan in the Senate. It got blocked over on the House side.

Every time we turned and tried at the congressional level we failed. Now we are about to succeed, I think, and I am confident we have the support of the distinguished Senator from Nebraska.

Mr. KERREY. I will stipulate that I agree that Congress failed in not being able to resolve the various conflicts and pass legislation to break up AT&T in the 1980's and come up with a legislative solution.

A failure of the Reagan administration, as well, not to be able to exercise sufficient leadership. I stipulate here on the floor tonight that it was a failure of the Reagan administration, a failure of the U.S. Senate in the 1980's, and a failure of the United States House of Representatives to be able to get this job done.

Is that a fair stipulation? Am I expressing something with which the Senator from South Dakota would disagree?

Mr. PRESSLER. Would my friend yield?

Mr. KERREY. I yield.

Mr. PRESSLER. I am not trying to score debate points, but in part, it was a failure of everyone and previous Congresses and administrations to tackle the difficult problem we were trying to tackle.

I am not putting anybody down. This bill has been worked on by many Senators, and the Senator from South Carolina has shown great courage. His speech was one of the great speeches that I have heard in the Senate.

I would say to my good friend from Nebraska, may I ask a question: Is there any other precedent, is there any other industry that has been taken over by the Justice Department and regulated and run as Judge Greene's decree did? Is not that unprecedented?

Mr. KERREY. Absolutely is.

Is there any situation, Senator, where governmental entity has produced so much good? Is there? Tell me the bad things that have happened since the consent decree was filed.

Mr. PRESSLER. Well, I would have supported the concept of a consent decree.

I think we have reached a point where Congress should take back its rightful role. I think that Judge Greene probably would say that. I have not met him. I would love to meet him some day, because he is one of the great people in American history in terms of what he has done. An industrial reconstruction that is bigger than any in history.

I always tell students when I give speeches in my State of South Dakota, if they want to influence public policy, they should become a journalist or Federal judge first, if they really want to have sweeping affects. I cite Judge Greene as an example.

But if I may say so, we are sort of debating the chicken and the egg.

Mr. KERREY. It is not the chicken and the egg.

Mr. PRESSLER. We have a situation that I think we have the responsibility to act.

Mr. KERREY. If Congress did it in 1985, they could not have done it as well as the Department of Justice. The regional Bell companies at the time of the filing of the consent decree object to restrictions placed on them on manufacturing, on services, and they objected because they wanted to get into all the things.

The consent decree said we will have competition. It said we will move from a monopoly to competition.

This is the agency of the government that has enabled us to do that. The U.S. Department of Justice has done it. That is what I see. I see them as an agency that has produced competition, in an unprecedented time, once before, and now in another unprecedented time.

In my judgment, we need them not to produce duplication, not to produce a duplicative process. It is a parallel process. Do you not go to one agency and then to another. I tend to walk through, as I see, the process.

I feel odd arguing, because in S. 1822 last year, we had all this pretty well settled. Last year's legislation came out with a 18-2 margin. I believe, basically, that did what the Dorgan amendment is now asking for.

I point out, as well, one of the statements that was made here that this thing could drag on a long, long time.

Well, the amendment tends to deal with that. I point out to my colleagues that there is a determination, a process, that says that the Attorney General, not later than 30 days after receiving an application, shall issue a written determination. There is a time certain in here of the 90 days.

Now, maybe 90 days is too long. Maybe it ought to be somewhat shorter. There is an attempt made here not to lengthen the process. Indeed, I believe very strongly that the law as it is written without this amendment is an invitation for lengthy litigation.

But most importantly, Mr. President, my fear with this, and it is a sincerely based fear, I do not come here pulling for the long distance companies, or represent one interest or another.

I come many times in this debate to say this: We are going to vote on this in final passage some time in the next year. We will have a vote on final passage.

Members need to understand that they will be held accountable for that vote. Who will hold them accountable? Who will say, "You cast the right vote." In the early difficult days, it will be the companies who have taken an interest. It will be the corporations that have been in town talking to Senators, day in and day out since the committee began its work in the early part of this year, and since the committee started its work last year. The companies that have been in town saying "We like this provision, we don't like this provision," all the delicate balance that has been referenced. Either get a pat on the back, or a wave, or some smaller number of fingers directed in your direction.

I urge my colleagues to understand that the much more important test of whether or not this piece of legislation is going to be something Senators are either proud of, or for the rest of your political career—perhaps shortened by this vote—Senators are explaining why they thought it would do something else.

This piece of legislation either produces lower prices and higher quality to 100 million residential users of information services from 9 basic industries, or anybody that votes "aye" on this thing has a lot of trouble.

I do not care what AT&T says. I do not care what the RBOC says. I do not care what the cable companies say or the broadcast people say, or anybody

else says. Out in that hallway or in your office or through the mailbox or through E mail or any other kind of communication, they may tell Senators they are doing the right thing, but the real test is going to come a year from now, 2 years from now, 3 years from now when this rubber begins to meet the road.

The question then will be, what do the consumers say? What do the citizens say? Dare I mention it, what do the voters say, who have not asked for this piece of legislation?

I say now for the 8th or 9th or 10th time, this is not something that has been driven by town hall meetings. This is not on talk radio. This is not something that is coming as a part of the Contract With America. No one has polled this. No one has reached out and said, we will do focus groups and find out what is going on here. This is being driven by legitimate corporations with a sincere desire to do something that current law says they cannot do.

So we are trying to do something that is unprecedented—unprecedented to take a large sector of our economy and move it from a monopoly status into a competitive environment.

And if we only worry about whether or not the existing corporations are going to be able to get what they want, in my judgment, not only would the consumers be unhappy, because they do not get the competitive choice they need. In my judgment, as well, all the promises of jobs we are talking about all the time, are not going to be fulfilled. Because, rest assured, when jobs are created they are going to be created by companies that do not even exist today. New entries, like we saw with Microsoft, new entries like we saw with Intel—we are going to see new entries that are going to be creating the jobs of tomorrow. And, unless this legislation permits, with no reservations, competition at the local level, it is unlikely that either the consumers of the United States of America, or those people in America who are trying to find jobs, are going to be terribly happy with the product.

I am going to go down a few things I have heard said here this evening. I do not know how much longer I will talk. I will talk a while. We are going to come back in tomorrow and have plenty of time to go through some additional matters. Let me go through some of the things that were referenced.

I have heard it said this is more regulation and more delay. I am prepared to argue and present it is not. I am prepared to argue in fact that the existing legislation, unless it is changed by the Dorgan amendment, is going to be more regulation and more delay.

I have heard it said the Department of Justice is going to take on legions of new employees. It is not true. Indeed, the much more likely possibility is it will be the FCC that has to take on legions of new employees because they are not used to doing this kind of work.

It is much more likely that the plethora of applications that come the FCC's way is going to produce an increase in that bureaucracy and not an increase in the Department of Justice.

I have heard it said, and I referenced it earlier, this is going to create duplication. It is not. It is a concurrent process, a simultaneous process of application. The FCC does the work it is supposed to do. The Department of Justice does the work it is supposed to do. There is not an overlapping of permit requirement here. One agency has one responsibility; another has another responsibility. There is a time certain, as I indicated already in the amendment.

In my judgment we have made an effort with this amendment to try to take into account the concerns that people have. Are we going to have more regulation? Is this going to create duplication? Is this going to mean more paperwork and delay? It will not mean more of any of those things. It will mean less.

I have heard it said, as I indicated earlier, that this is an unprecedented intrusion by the Department of Justice into an industry. Mr. President, this whole venture is unprecedented. I hope colleagues understand that. It is an unprecedented action. It is an unprecedented bipartisan action, and I trust and hope this amendment will become an unprecedented bipartisan action as well, because, unless we improve this legislation with this change, those who vote "yes" on this bill, I believe sincerely and genuinely, will regret having done so.

Mr. President, I hear that this is a dangerous precedent.

Mr. PRESSLER. I am sorry. I have the example, if the Senator will yield, that he asked for earlier.

Mr. HOLLINGS. If the Senator will yield, what we have, I say to the distinguished Senator, is the minority leader's amendment. When we called up the bill we put in the majority leader's amendment. We did not have a opportunity to put in the minority leader's, and we wanted to print it in the RECORD so the Members could read it.

Will Senator temporarily yield?

Mr. KERREY. I will.

Mr. HOLLINGS. Mr. President, I ask unanimous consent the pending amendment be set aside so I may send an amendment to the desk on behalf of myself and the Democratic leader, Senator DASCHLE.

Without objection, it is so ordered.

AMENDMENT NO. 1266

(Purpose: To clarify the requirements a Bell operating company must satisfy before being permitted to offer long distance services, and for other purposes)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. DASCHLE, proposes an amendment numbered 1266.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, after line 25, insert the following:

SEC. 107. COORDINATION FOR TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadcast number of users and vendors of communications products and services through—

(1) coordinated telecommunications network planning and design by common carriers and other providers of telecommunications services, and

(2) interconnection of telecommunications networks, and of devices with such networks, to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks,

the Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act, in the development by appropriate voluntary industry standard-setting organizations to promote telecommunications network-level interoperability.

(b) DEFINITION OF TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.—As used in this section, the term "telecommunications network-level interoperability" means the ability of 2 or more telecommunications networks to communicate and interact in concert with each other to exchange information without degeneration.

(c) COMMISSION'S AUTHORITY NOT LIMITED.—Nothing in this section shall be construed as limiting the existing authority of the Commission.

On page 66, line 13, strike the closing quotation marks and the second period.

On page 66, between lines 13 and 14, insert the following:

"(6) ACQUISITIONS; JOINT VENTURES; PARTNERSHIPS; JOINT USE OF FACILITIES—

"(A) LOCAL EXCHANGE CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

"(B) CABLE OPERATORS.—No cable operators or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

"(C) JOINT VENTURE.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

"(D) EXCEPTION.—Notwithstanding subparagraphs (A), (B), and (C) of this paragraph, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may ob-

tain a controlling interest in, management interest in, or enter into a joint venture or partnership with such system or facilities to the extent that such system or facilities only serve incorporated or unincorporated places or territories that—

"(i) have fewer than 50,000 inhabitants; and

"(ii) are outside an urbanized area, as defined by the Bureau of the Census.

"(E) WAIVER.—The Commission may waive the restrictions of subparagraph (A), (B), or (C) only if the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

"(i) the incumbent cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions,

"(ii) the system of facilities would not be economically viable if such provisions were enforced, or

"(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(F) JOINT USE.—Notwithstanding subparagraphs (A), (B), (C), a telecommunications carrier may obtain within such carrier's telephone service area, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that portion of the transmission facilities of such a cable system extending from the last multiuser terminal to the premises of the end user in excess of the capacity that the cable operator uses to provide its own cable services. A cable operator that provides access to such portion of its transmission facilities to one telecommunications carrier shall provide nondiscriminatory access to such portion of its transmission facilities to any other telecommunications carrier requesting such access.

"(G) SAVINGS CLAUSE.—Nothing in this paragraph affects the authority of a local franchising authority (in the case of the purchase or acquisition of a cable operator, or a joint venture to provide cable service) or a State Commission (in the case of the acquisition of a local exchange carrier, or a joint venture to provide telephone exchange service) to approve or disapprove a purchase, acquisition, or joint venture."

On page 70, line 7, strike "services." and insert "services provided by cable systems other than small cable systems, determined on a per-channel basis as of June 1, 1995, and redetermined, and adjusted if necessary, every 2 years thereafter."

On page 70, line 21, strike "area." and insert "area, but only if the video programming services offered by the carrier in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area."

On page 79, before line 12, insert the following:

(3) LOCAL MARKETING AGREEMENT.—Nothing in this Act shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on the date of enactment of this Act and that is in compliance with the Commission's regulations.

On page 88, line 4, strike "area," and insert "area or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier,".

On page 88, line 5, after "carrier" insert "that serves greater than 5 percent of the nation's resubscribed access lines".

Mr. HOLLINGS. I thank the distinguished Senator from Nebraska for allowing us to do that. This will have

printed in the RECORD, now, this particular amendment, for the colleagues.

AMENDMENT NO. 1264, AS MODIFIED AND
AMENDMENT NO. 1265, AS MODIFIED

Mr. KERREY. Mr. President, let me go through a few more things here. I appreciate that. I have only a few things.

Mr. PRESSLER. Will my friend yield? This is a fascinating dialog for me. I am not in any way trying to one-up or anything. But in the early 1980's both AT&T and IBM were in the Justice Department with big lawsuits against them. And on the same day, January 8, 1982, the Federal Government chose two different destinies for those mammoth companies.

It is my contention that, had we done with AT&T then what we are trying to do now, that is broken up the monopoly by requiring them to unbundle and interconnect and allow competition—in any event the computer industry went the other way. The computer industry—it is true there are winners and losers. It is true IBM has had problems and had spinoffs. But the computer industry, in terms of service to the American people, and dropping costs, moved forward much faster. In fact, there is a chart here that, had the telecommunications industry moved forward in competition as much as IBM in the computer area, the cost of telephones today would be about a fifth what they are, because the innovation and the competition, reduction in costs was much greater in the computer industry.

So the Justice Department on the same day in 1982 sent the two industries on two different paths. They did that with AT&T because Congress had failed to act. We failed to do then what we are trying to do now, that is open up access, provide interconnection and unbundling to provide competition. And we would have had much more innovation in the telecommunications area, if you compare the two industries.

Mr. KERREY. I say to the Senator from South Dakota, had we done that, had we tried to follow the model of IBM, we would have had to do a number of other things. We would have had to say there is no public purpose in having universal service to all Americans.

Mr. PRESSLER. I am not talking about IBM, I am talking about the computer industry. I am talking about the computer industry.

Mr. KERREY. But AT&T and IBM are wholly different cases. IBM is a company that manufactured hardware and software for the consumer and business industry. There is no public purpose there, in saying we have to make sure every single American household has a computer. Whereas AT&T was a monopoly created with the 1934 Communications Act, with a franchise and a specific instructions to achieve universal service for all Americans.

So, in the one case—

Mr. PRESSLER. If my friend will yield, I am talking about the computer industry, the competitiveness that is in it. It has been far more innovative than the telecommunications areas. I know the two companies are different. I am not just talking about IBM. It has been replaced—there have been all those things that have happened; Intel, Apple, and all sorts of things. I could go through them.

But a comparison of the two technologies, how they have progressed—compare the computer area to telecommunications, you would find that today a telephone call would be only a few cents, if it had advanced as much as the reduction in cost of personal computers. My friend asked for an example. That is an example.

But, in 1982, what the Congress should have been doing—

Mr. KERREY. I ask my friend from South Dakota, does he think it would have cost a couple of cents in Rapid City, SD?

Mr. PRESSLER. Personal computers cost much, much less in Rapid City.

Mr. KERREY. If we had taken the IBM track in 1984, does the Senator think it would have cost a couple of cents for phone service in South Dakota? I do not think so.

Mr. PRESSLER. Personal computers cost much less in South Dakota than they would otherwise. You can argue this thing circuitously. You might have innovations. In the computer area there are so many innovations. We may have had telecommunications innovations that we have not had. You cannot argue this perfectly.

But there is probably no part of American industry that has had more innovation and competition than the computer industry, and people in Rapid City, SD, can buy personal computers at a fraction of the cost, and they are much more advanced than they would have been had the Justice Department gone the other way.

Mr. KERREY. The point in fact is the Justice Department put the pressure on IBM, caused IBM to spin off two relatively insignificant, at the time, inventions. One was—

Mr. PRESSLER. I am talking about the computer.

Mr. KERREY. The Department of Justice had a very constructive impact on IBM and on the U.S. economy. They had them spin off a couple of little things. One was an operating system called MS-DOS. And a couple of guys, high school or college dropouts up in Seattle, they built Microsoft. And Intel was the second company that got spun off, because the Department of Justice said we have a monopoly here. It is unacceptable.

You are going to control too much of the economy. We are going to require some action. I understand you are using an example. I find the example difficult frankly on two grounds: One, in the case of IBM, you are dealing with a company that is different than AT&T. AT&T is a licensed monopoly

by law created as a monopoly. The question is how do you go from that monopoly to something you now want to become a competitive industry?

That is what I find most remarkable about the objection to this amendment—that if you are looking for a Federal agency with experience taking a monopoly situation to a competitive situation, why in heaven's name would we not go to the Department of Justice that has the most experience doing it and the most successful experience doing it? They have the track record. They have the personnel. Tell me where the FCC was in all of this. Describe to me the FCC's role either in IBM or in AT&T in a transition from monopoly to competition.

Mr. PRESSLER. If my colleague will yield again, I am talking not specifically about IBM. But I am talking about the direction the computer industry took. AT&T was a Government monopoly. But my argument is that if we had done what we are trying to do in this bill—that is, require them to unbundle and interconnect, to allow for local competition, allow people to have access locally as this bill does, the whole telephone communication industry might be much more innovative today than it is.

Mr. KERREY. I hear that. But one of the reasons Congress did not do that was when you get right down to it, it is difficult for us to say to a company you have to be competitive.

I say to my friend from South Dakota that when the Cohen amendment came up earlier we were on the opposite sides of that issue. The Cohen amendment said we are going to take the set-top box industry and allow it to develop in a competitive fashion. There were concerns from smaller cable operators that it could result in some hardship to them. It could result in some problems for them. I understand. I think it is very difficult for the U.S. Congress to take a position to say to any industry that we are going to require you to go from a situation where you are not competitive, where you have been given Government protection of some kind, and in this particular case it is the telephone industry, given a franchise, given protective status, protected from competition, we are trying to figure out how to protect them from that protected status to a competitive environment, and the only Federal agency in town, in the people's capital in Washington, DC with the experience of having done it is the U.S. Department of Justice is given a consultative role. "Oh, what do you think of this transition, Mr. Department of Justice?"

It seems to me, odd. I do not understand. I understand why the people who are going from a monopoly to a competitive environment oppose this. I understand why they are nervous about it because they saw how effective the Department of Justice was the previous time they did it. They saw how rigorous the Department of Justice was in

making sure that there was competition.

Mr. PRESSLER. If the Senator will yield, it is not true that if we allow the FCC to set the standard for anything, a Government standard, there is very little room for innovation, for new inventions, for the type of things that have happened in the competitive world. There are some winners and some losers.

But my point about computers is that every 18 months things become virtually obsolete because there is so much competition. There are so many things going on. The average consumer has benefited from all this competition. They can own a personal computer, and the prices are going down and capacity has gone up enormously. Had we had the Government standards we would not have seen that type of innovation.

That is the point I am trying to make.

Mr. KERREY. We are not proposing a Government standard with this amendment, I do not believe. Maybe I misunderstand the amendment of the Senator from North Dakota. I do not believe so. I do not believe we are proposing that. I do not know if the Senator from South Dakota is familiar with it. I suspect the Senator is since he has been inundated with all of this stuff involved in this piece of legislation. There is an issue of interoperability.

I introduced an interoperability bill a month or so ago, and immediately was approached by some people in the private sector who said that if the Government comes in and sets a legal de jure standard, what that does is it inhibits the development of the de facto standards, and I yielded to that argument. Indeed, I do not want the Government to establish in technology with the de jure standard that makes it difficult for the companies to go to the marketplace and say we are going to give what the marketplace wants and after we have given you what you want that becomes the standard, that becomes the new standard. I do not want to inhibit that at all.

What I am concerned about, again I say for my colleagues, I am concerned about that the consumer who will not benefit unless there is competition so rigorous that I can take my business someplace else if I do not like what is being offered either in the way of price or service, not in independent lines of business, not in cable, not in dial tone, not in tech. But if they want to come in and sell it to me all put together for a lower price than I am currently paying, that is where I am going to get innovation and reduction in the cost of my current household information services. I am not going to get it if you preserve out of concern for what the Department of Justice is going to do, if you preserve a line of business differential in some artificial fashion. I think that is what this legislation does unless we get the Department of Justice with a role, an active role.

I mean I am willing to consider any suggestions on what to do, to reduce any potential duplication, overlap. I am willing to consider any suggestions to make sure we shorten the time. We do not want to stretch it out. The idea is do what Justice did in 1984. You go into court. If you get the parties in hand, you write up a memorandum. You get in this case a consent decree. You walk into the judge at a Federal court, and you file it. All parties agree. You do not have litigation afterwards.

You do not have any dispute to tie this thing up for a long time and tragically prevent the very competition that we are trying to see. I hope my colleagues understand that. If this thing is litigated, if I as an owner in a monopoly fashion have the right to deliver information services at the local level, and can tie this thing up in court for a long enough time to prevent that innovation from occurring, it is prevented permanently for the very reason that the Senator from South Dakota said, because innovation only lasts a little while and then it is obsolete.

So I understand this delicate balance. I truly do. The distinguished chairman and the ranking Member have worked so hard on it. I understand that maybe it could all come apart if this amendment is agreed to. Members say, "Oh, my gosh. We settled that in committee. We cannot now take it up again."

I hope that we get some reconsideration of that conclusion. If I am wrong, if I have reached a conclusion because I have myself diagnosed the scene and do not understand what is going on, come and tell me. I am prepared to admit. If I see that incorrectly I have assessed on behalf of consumers and people making certain this legislation does set off some innovation that results in new and higher paying jobs for the people of the United States of America, I do not believe that this is a precedent that we should fear. Indeed, I believe it is a precedent that we should seek based upon the success of having done it once before.

I heard one of the comments here this evening. Well, if the Justice Department has specialized expertise, then maybe we would ask them to do this. It does have specialized expertise. That is precisely the point. It has specialized expertise. Let us define what we want the Justice Department to do based upon that specialized expertise and have the FCC do what it does well, based upon its specialized expertise. And in that kind of a situation, Mr. President, we must be able to come to an agreement on how to make certain that we do not end up with overlap and duplication and a long regulatory process that makes it difficult not just for the RBOC's to get into long distance, but far greater concern for all of us who want to make sure that our vote turns out right, and that consumers end up with lower prices and higher quality service as a consequence.

Mr. President, I really could talk a bit longer. I do not know what the dis-

tinguished Senator from South Dakota has in mind for the evening. It looks like there is a shortage here of red-blooded American men and women, unfortunately, elected to this great body that want to talk on this wonderful issue.

Mr. PRESSLER. I do not see colleagues nor the Chamber filled with people listening to my words.

But, in very good spirit, I say to my friend from Nebraska, I have worked with him on his interoperability amendment. In fact, we accepted it. But only after insisting that a private standard be set. My understanding is then the Senator's original proposal had a Government standard set.

Mr. KERREY. It had a voluntary Government standard, and I was willing to make changes and make certain that it did not become a rigid Government standard, this is true.

Mr. PRESSLER. I do not care to debate it.

Mr. KERREY. Network and network interoperability.

Mr. PRESSLER. I welcome it and pleased to accept it, and it demonstrates that we are working together.

I have said about all I am going to say today, but I do have some remarks for the leader at the appropriate time.

Mr. KERREY. I will just take a few minutes and conclude for this evening.

The distinguished ranking member went through the 14 part checklist and said that among other things this checklist—for my colleagues who are wondering, this is in section 221. It actually becomes section 255 of the communications act.

This checklist says this is what a Bell operating company, your local telephone company from whom you purchase your telephone service, this is what they have to do in order to be able to provide long distance. That is, they have to do all these things and present that to the FCC. And when they do that and meet one higher test, one additional test, public interest test, then they are allowed to get into long distance.

Now, the idea here is that that 14 part checklist substitutes for meeting a test called no substantial possibility of interfering with demonstrable competition, or some such thing as that. The idea is that this 14 part checklist is all we need to have in order to make certain that we have competition.

Now, the phone companies in their defense are a bit frustrated with all this because they say oh, my gosh, I have this 14 part checklist and now you want me to satisfy the Department of Justice. I want them to have a role in this thing as well. That is too much.

Mr. President, I actually think that in these negotiations we sometimes sort of seize onto something and begin to feel as if it has to be this way and there is no better way. I say to the phone companies, you would be far better off if your interest is getting competition without litigating it, you

would be far better off with both of these things. You have a checklist. I know exactly what it is you have to do. We have gone through that exercise. We have said that is what you have to do to get into long distance. You present that to the FCC. You go through the process as Justice simultaneous with that and then there is no dispute. There is nobody that can say to you you have not satisfied what is required to make sure there is local competition, and for us in the Congress no risk that we will not have that competition, and it is the biggest risk in this whole deal. Fail to get that competition at the local level and most assuredly regret will come to your mind sometime in the not too distant future.

I am going to just make one last comment and then wrap this up. One last thing that was said was there is a lot of money over at FCC from the auctions. As I understand it, in fact I know it to be the case, that auction money is hardly available if you are going to add staff over at the FCC in order to be able to handle the increased caseload, and there is going to be increased caseload. There is going to be increased pressure upon the FCC. They are going to have to hire new people. They do not have this expertise over there right now. They are going to have to hire at the FCC in order to be able to handle these applications, in order to be able to make those determinations. We are going to have to build what does not exist today in a Federal agency that previously has not had this kind of responsibility. And you are going to have to find an offset in some fashion in order to be able to get the job done, whereas, as I see it anyway, at the Department of Justice we already have those folks on the job.

Mr. President, once again I say I hope that in the process of debating this, this will in the end lead to a piece of legislation I am able to enthusiastically support based upon my confidence that this is going to be good for the American consumer, this is going to be good for American workers that are hoping that this country will create more high paying jobs, that this will be good for American citizens who increasingly are dependent upon information in order to do a good job in their schools, to do a good job in their businesses, to do a good job in their operating rooms and various other places where Americans either work or play.

I appreciate the tolerance and the assistance of the distinguished chairman of this committee and the ranking member who has already left.

Mr. President, I yield the floor.

Mr. PRESSLER. Mr. President, if I may commend my friend from Nebraska because I think our discussion has stimulated at least me to think a bit about where we are historically as we conclude this debate this evening.

First of all, it is stimulating in the sense to think if we can find a way to help people have more products available at a lower cost that are useful to

them in their lives, we are doing more for them than if we were to give them Government aid. There is a proper role for Government in our society. But it is my strongest feeling that if we can find ways through competition in the free enterprise system that people can have products at a lower price in abundance and innovations we are actually doing more for them frequently than if we give them grants or aid.

For example, let us talk about senior citizens. I am a champion of senior citizens. We deregulated natural gas prices in the 1970's, and I remember I was over in the House of Representatives, and we were struggling with that issue. And people said, if you deregulate natural gas the prices are going to skyrocket and companies are going to gouge everybody. In fact, the prices came down and they have stayed down. If you want to do a senior citizen a favor, you can help the cost of heating their home stay low. You can help the cost of their goods to be lower through competition.

Usually we think of helping senior citizens by giving them more money or spending taxpayers' money, and in some cases that is accurate. But you can also help senior citizens by providing them low cost fuel and low cost natural gas. And that has been done through deregulated natural gas prices.

And I also say that to a lot of people in the United States the innovations that have occurred in the computer industry—true, there have been some winners and losers among the companies, but the fact is that people have lower cost personal computers available today through competition. And we never could have achieved that through Government regulations or Government standards. Indeed, every 18 months there is a complete turnover.

I also serve on the Finance Committee, and the people in the computer area in Silicon Valley would like an 18-month depreciation schedule because their products are obsolete after 18 months. That is because there is so much competition and there is not a Government standard holding them back. The American free enterprise system allows that type of innovation. Every 18 months the old computer is obsolete, and we are moving forward and people are able to buy personal computers at a low cost. That is a service to people much more so than if we had a huge Government agency regulating and setting standards.

I would say that through this bill if we can increase competition and if through this bill we can bring innovation, we will see the same kind of explosion of new devices and investment and services for telecommunications at a lower cost to consumers, just as we have seen in other areas of competition. But we do not have that so long as we have the Justice Department and the FCC running things with Government regulation and Government standards.

Now, also let me say what will happen if we do not pass this bill.

It is tough to pass this bill because different groups have checkmates and the White House has been opposing this bill—though they will not say they will veto it. But I am very sad about this opposition, because if we do not pass this bill, we will be failing again as a Congress to do what we are supposed to do.

Had Congress, before 1982, required AT&T to unbundle and interconnect so they could have competition in the local markets, we would not be here today. We would have had an explosion of new devices in telecommunications, more than we have had. We would have lower costs. There is no reason the cost of long distance calls needs to cost what they do. Consumers should be paying a fourth of what they are paying for local and long distance service, based on what has happened to prices in the computer area.

We are trying to do what we were supposed to do in 1982 in this bill, and we are trying to get this thing together. Yet people come to the floor with more regulatory amendments. This amendment that is before us now to put on the Department of Justice another layer of regulation is going to delay, delay, delay. What if computers and innovation in computers had to go through the Department of Justice? It takes 3 to 5 years for them to respond even to petitions that are routine. Why do we want more regulations?

If we do not pass this bill, we will be failing again. People say, "Well, if we don't pass this bill, we'll get another bill." No, we will not. We are coming into a Presidential election, and it will be over to 1997 and that is 2 more years of innovation and lower prices for the American people lost.

I say to the White House, I find it very odd that the White House is opposing this bill, because they will not say they will veto it. I went over three times to see AL GORE, to get him to lead this movement, because it is everything he says he believes in. It is reinventing, privatizing, all of those things; it is the information highway.

I have been amazed that the White House has not supported this. They will not say they are going to veto it.

Every Democrat on the Commerce Committee voted for this bill. The Democrats in the Senate have been at the forefront of helping us to deregulate and move forward in telecommunications.

I know there have not been very many bipartisan bills that have passed this Senate, and I will not put this on a partisan basis. I would give as much credit to Senator HOLLINGS as to some of the Republican people and Democratic people that have served for years. But here we have a chance to deregulate an industry, to get everybody into everybody else's business. If we slip and fail, this thing will go over to 1997, and then we will start again, I suppose, because we are not going to

have a major telecommunications reform bill in a Presidential election year.

I have also said that I hope that this bill passes both Houses by the Fourth of July. I hoped it would be signed by the President by the Fourth of July. That was my original goal.

The Senate has moved on a bipartisan basis in an amazingly coordinated way. We had meeting after meeting every night with Democrats and Republicans. We met Saturdays and Sundays, Democrats and Republicans, shoulder to shoulder, to finally get a telecommunications bill. We passed it through the Senate Commerce Committee when people said it could not be passed. It is on the Senate floor.

This is early June. This is one of the most complicated bills here, and it will affect a third of the American economy. It affects every home in America. And I think it is time for the White House to join us. They are opposing this bill. I think it is time for the Consumer Federation of America to join us. I hope NEWT GINGRICH gives this bill an early slot over there because it is very important. It is a bipartisan bill that will create jobs, and it will create the kind of jobs we want in this country.

Right now, a lot of our telecommunications industry is forced to invest overseas because they are prohibited from doing certain things here. Our regional Bells cannot manufacture, they cannot do this, and they cannot do that. So one of my friends in my life, Dick Callahan, for example, president of U.S. West International, is over in London. He is originally from Sioux Falls. He is not in Denver and Sioux Falls investing, he is over in London investing U.S. money in things that the telecommunications companies can do there that they cannot do here. I would rather have the Dick Callahans of this world creating jobs in the United States.

Also, this bill is a modernizing bill. We are losing jobs in some of our aging industries, very frankly. We read every day about how a certain mature industry is laying off people. I recently toured the Caterpillar plants in Peoria, IL, and I saw the difference in the assembly line where the modernized part is, where they turn out 51 engines a day, versus the old part, where they turn out 13 engines a day. They make 51 engines with fewer people.

But those people will need new jobs in new industries, and this bill does that. Everybody should understand that. This is a jobs bill, but it is not a jobs bill through Government, it is a jobs bill through free enterprise. If we are going to do something for people, we provide them more services at a cheaper level, just as with deregulating natural gas. We helped every senior citizen, probably more than we did with the COLA on Social Security, by providing them with a cheap form of fuel to heat their home. And that is what this bill is.

I could go on at great length. But I would like to conclude the debate today by saying I think we have made good progress on this bill. This is a bill that some of the private newsletters said only had a 10 percent chance in January. They said it had a 30 percent chance in April. But I think we are right on the cusp. We have to make progress with this bill. If we do not, we will be failing the American people and we will be failing the creation of a lot of jobs, new kinds of jobs, and we will be having our brightest people going overseas investing our telecommunications capital, as is happening.

Mr. CAMPBELL. Mr. President, I rise today to support the Telecommunications Competition and Deregulation Act of 1995—S. 652.

S. 652 will open telecommunications markets to competition which will benefit consumers and the American economy. It will give America the freedom we need to remain the world's leader in telecommunications, information and computer technology in the 21st century. Keeping this edge will enhance our competitiveness, spur domestic economic growth and job creation, and, most importantly, provide a better quality of life for our citizens.

Mr. President, I want to make sure that these same benefits flow into the educational system and into our classrooms, libraries and hospitals.

The communications revolution is leaving our schools behind. As access to telecommunications technology and information increases across the country, our classrooms are cut off from the information revolution. The National Center for Education Statistics reports that overall, 35 percent of public schools have access to the Internet but only 3 percent of classrooms in public schools are networked. Smaller schools in rural areas are even less likely to be on the Internet than schools with larger enrollment sizes.

Mr. President, I live in a small rural town in Colorado where many schools lack even basic phone lines. I have seen, first-hand, how many rural areas were left unserved and were dependent on the Federal Government to finance cooperatives to bring basic telephone service to rural communities. Schools and libraries in rural Colorado and in rural America cannot afford to be left unserved and kept out of the information revolution.

The Snowe-Rockefeller provision in S. 652 ensures that rural communities and high cost areas have access to communications and information technology. This provision builds on the overall universal service provision in S. 652 and adds the important component of providing schools, libraries and hospitals with affordable access to the Information Superhighway. In my view, it is essential to rural communities to keep this provision in the bill. Otherwise, rural areas will not benefit from technological advances in communications.

There is a growing understanding that technology can have a significant positive impact on teaching and learning and can serve as a means for achieving educational excellence. For example, a computer network connected to the classroom means that every teacher and student has access to the world's greatest libraries. New technologies and tools such as e-mail and the World Wide Web will give schools greater access to text, audio and video-on-demand. Through telecommunications, students and teachers will gain access to significantly greater amounts of information than would otherwise be available.

Teachers could be far more productive and innovative if they had access to new ideas and technologies through computer networks. Studies show productivity increases of as much as 30 percent when teachers are connected to the Information Superhighway. In essence, teachers would be able to exchange lesson plans, get tips from their colleagues, or obtain access to the Library of Congress or the National Archives for teaching materials. In rural areas, students can access information through distance learning programs where information and instruction is exchanged by two-way videos.

There are many exciting technological opportunities available for our schools and libraries across the country. Yet, teachers simply do not have adequate tools to use the resources of the information revolution. Most teachers have not had adequate training to prepare them to use technology effectively in teaching. According to survey data from the National Education Association, an estimated 56 percent of all public school teachers feel they need training to use personal computers adequately in their classes and 72 percent need training in the use of on-line databases.

Technology can even draw parents into the education process. Many parents do not understand how technology filters into the education process, and they do not understand its significance in their children's schooling. However, parents can have access to simple voice-mail technology and can call into a mailbox to find out the homework assignment or information about a class trip. In the future, classroom networks could eventually extend to the home and thereby fulfill what educators say is their biggest unmet need: lengthening the learning day and involving the parents.

Mr. President, all of the Nation's children deserve to be exposed to the best possible education, not just those who live in affluent areas. But, without a national commitment to providing affordable access to these emerging technologies in schools and libraries in rural areas, our Nation will fall far short in preparing all its citizens for the 21st century.